

BILL ANALYSIS

C.S.H.J.R. 148
By: Coleman
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that the legislature should have the express authority to pass laws and create special purpose districts with explicit goals and functions relating to the protection of the health and welfare of Texans during emergency situations; the prevention of and protection from damage to or destruction of property in the state; and the preservation and protection of the state's natural resources. C.S.H.J.R. 148 seeks to expand the efficacy of the legislature in those circumstances by proposing the addition of new constitutional provisions.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.J.R. 148 proposes an amendment to the Texas Constitution to declare as public rights and duties, and to authorize the legislature to pass laws as may be appropriate relating to, the protection of the health and welfare of Texas citizens and residents during certain emergency situations, the prevention of and protection from damage to or destruction of property in Texas, and the preservation and protection of natural resources in Texas. The resolution authorizes the creation of emergency response districts and the division of Texas into such districts as may be determined to be essential to the accomplishment of these purposes. The resolution requires emergency response districts to be governmental agencies and bodies politic and corporate with such powers of government and with the authority to exercise such rights, privileges, and functions concerning such purposes as may be conferred by law.

C.S.H.J.R. 148 requires the legislature to authorize indebtedness necessary to provide improvements and the maintenance of those improvements necessary to the achievement of the resolution's purposes. The resolution authorizes indebtedness to be evidenced by bonds or other obligations of the emergency response districts, to be issued as may be prescribed by law. The resolution also requires the legislature to authorize the imposition of taxes within the emergency response districts, equitably distributed, as may be necessary for the payment of interest and the creation of a sinking fund for the payment of bonds or other obligations and for the maintenance of the districts and improvements. The resolution requires the indebtedness to be a lien on the property assessed for the payment of the indebtedness. The resolution prohibits the legislature from authorizing the imposition of taxes for maintenance and operation of an emergency response district, authorizing the issuance of any bonds by a district, or providing for any indebtedness against a district unless that proposition is submitted to the qualified voters of the district and adopted by the voters.

C.S.H.J.R. 148 prohibits the passage of a law creating an emergency response district unless notice of the intention to introduce the bill setting forth the general substance of the contemplated law has been published at least 30 days and not more than 90 days prior to the introduction of the bill in a newspaper or newspapers having general circulation in the county or

counties in which the district or any part of the district is or will be located, and by delivering a copy of the notice and the bill to the governor, who is required to submit the notice and the bill to the division of emergency management of the Department of Public Safety of the State of Texas or its successor. The resolution requires the division or its successor to file its recommendation as to the bill with the governor, the lieutenant governor, and the speaker of the house of representatives not later than 30 days after the date the notice is received by the division or its successor. The resolution requires the notice and copy of a bill to also be given for the introduction of a bill amending a law creating or governing a particular emergency response district if the bill adds additional land to the district, alters the taxing authority of the district, alters the authority of the district with respect to the issuance of bonds, or alters the qualifications or terms of office of the members of the district's governing body.

C.S.H.J.R. 148 prohibits the passage of a law creating an emergency response district unless, at the time notice of the intention to introduce a bill is published, a copy of the proposed bill is delivered to the commissioners court of each county in which the district or any part of the district is or will be located and to the governing body of each municipality in whose jurisdiction the district or any part of the district is or will be located. The resolution authorizes each commissioners court and governing body to file its written consent or opposition to the creation of the proposed district with the governor, the lieutenant governor, and the speaker of the house of representatives. The resolution requires each special law creating an emergency response district to comply with the provisions of the general laws then in effect relating to consent by political subdivisions to the creation of emergency response districts and to the inclusion of land in the district.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 5, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.J.R. 148 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 resolution.

INTRODUCED

SECTION 1. Article III, Texas Constitution, is amended by adding Section 48-d to read as follows:

Sec. 48-d. (a) The following are declared to be public rights and duties, and the Legislature may pass laws as may be appropriate relating to:

(1) protection of the health and welfare of the citizens and residents of this State during natural disasters and other emergency situations;

(2) prevention of and protection from damage to or destruction of property in this State; and

(3) preservation and protection of natural resources in this State.

(b) There may be created within this State,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article III, Texas Constitution, is amended by adding Section 48-d to read as follows:

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(1) protection of the health and welfare of the citizens and residents of this State during natural disasters and other emergency situations;

(2) prevention of and protection from damage to or destruction of property in this State; and

(3) preservation and protection of natural resources in this State.

(b) There may be created within this State,

or the State may be divided into, such number of emergency and disaster response districts as may be determined to be essential to the accomplishment of the purposes of this section. The emergency and disaster response districts shall be governmental agencies and bodies politic and corporate with such powers of government and with the authority to exercise such rights, privileges, and functions concerning the subject matter of this section as may be conferred by law.

(c) The Legislature shall authorize indebtedness necessary to provide improvements and the maintenance of those improvements necessary to the achievement of the purposes of this section. The indebtedness may be evidenced by bonds of the emergency and disaster response districts, to be issued as may be prescribed by law. The Legislature shall also authorize the imposition within the emergency and disaster response districts of taxes, equitably distributed, as may be necessary for the payment of interest and the creation of a sinking fund for the payment of bonds and for the maintenance of the districts and improvements. The indebtedness shall be a lien on the property assessed for the payment of the indebtedness. The Legislature may not authorize the issuance of any bonds or provide for any indebtedness against an emergency and disaster response district unless that proposition is submitted to the qualified voters of the district and adopted by the voters.

(d) A law creating an emergency and disaster response district may not be passed unless notice of the intention to introduce the bill setting forth the general substance of the contemplated law has been published at least 30 days and not more than 90 days prior to the introduction of the bill in a newspaper or newspapers having general circulation in the county or counties in which the district or any part of the district is or will be located, and by delivering a copy of the notice and the bill to the governor, who shall submit the notice and the bill to the Division of Emergency Management of the Department

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(c) The Legislature shall authorize indebtedness necessary to provide improvements and the maintenance of those improvements necessary to the achievement of the purposes of this section. The indebtedness may be evidenced by bonds or other obligations of the emergency response districts, to be issued as may be prescribed by law. The Legislature shall also authorize the imposition within the emergency response districts of taxes, equitably distributed, as may be necessary for the payment of interest and the creation of a sinking fund for the payment of bonds or other obligations and for the maintenance of the districts and improvements. The indebtedness shall be a lien on the property assessed for the payment of the indebtedness. The Legislature may not authorize the imposition of taxes for maintenance and operation of an emergency response district, authorize the issuance of any bonds by a district, or provide for any indebtedness against a district unless that proposition is submitted to the qualified voters of the district and adopted by the voters.

(d) A law creating an emergency response district may not be passed unless notice of the intention to introduce the bill setting forth the general substance of the contemplated law has been published at least 30 days and not more than 90 days prior to the introduction of the bill in a newspaper or newspapers having general circulation in the county or counties in which the district or any part of the district is or will be located, and by delivering a copy of the notice and the bill to the governor, who shall submit the notice and the bill to the Division of Emergency

of Public Safety of the State of Texas or its successor. The Division or its successor shall file its recommendation as to the bill with the governor, lieutenant governor, and speaker of the house of representatives not later than 30 days after the date the notice is received by the Division or its successor. The notice and copy of a bill shall also be given for the introduction of a bill amending a law creating or governing a particular emergency and disaster response district if the bill:

(1) adds additional land to the district;
(2) alters the taxing authority of the district;
(3) alters the authority of the district with respect to the issuance of bonds; or
(4) alters the qualifications or terms of office of the members of the governing body of the district.

(e) A law creating an emergency and disaster response district may not be passed unless, at the time notice of the intention to introduce a bill is published as provided in Subsection (d), a copy of the proposed bill is delivered to the commissioners court of each county in which the district or any part of the district is or will be located and to the governing body of each municipality in whose jurisdiction the district or any part of the district is or will be located. Each commissioners court and governing body may file its written consent or opposition to the creation of the proposed district with the governor, lieutenant governor, and speaker of the house of representatives. Each special law creating an emergency and disaster response district shall comply with the provisions of the general laws then in effect relating to consent by political subdivisions to the creation of emergency and disaster response districts and to the inclusion of land in the district.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the creation of emergency and disaster response districts."

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