

BILL ANALYSIS

S.B. 1890
By: Hinojosa
Special Purpose Districts
Committee Report (Unamended)

BACKGROUND AND PURPOSE

This legislation is a local bill that applies to Hidalgo County Water Improvement District No. 3 (district) and is bracketed to apply only to the City of McAllen.

The district pumps more than 80 percent of its water supply directly to the City of McAllen for municipal purposes. The district serves very few agricultural users and the City of McAllen is positioned to continue to serve those few agricultural customers without any disruption of service.

Furthermore, the bill contains several safeguards including the requirement for a two-thirds vote of the city commission to adopt an ordinance dissolving the district, the ability for the city to place the issue on the ballot for an election, and the requirement that certain findings be made to ensure that no one receiving service from the district is left without service.

S.B. 1890 amends current law relating to procedures for the dissolution of the Hidalgo County Water Improvement District No. 3.

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

SECTION 1. DEFINITIONS. Defines "city," "city council," "district," and "district board" in this Act.

SECTION 2. DISTRICT AND MUNICIPALITY TO WHICH ACT IS APPLICABLE.

Provides that this Act applies only to the Hidalgo County Water Improvement District No. 3 (district), and a municipality that has a population greater than 100,000 and contained on April 1, 2013, within its corporate boundaries or extraterrestrial jurisdiction more than half the district's territory.

SECTION 3. DISSOLUTION OF DISTRICT; FINDINGS PREREQUISITE TO MOTION TO TRANSFER. (a) Provides that the district is dissolved on the date a transfer ordinance adopted pursuant to Section 6 of this Act takes effect under Section 8 of this Act.

(b) Authorizes a city, at a regularly scheduled meeting of the city council, to propose an ordinance to allow the city to accept a transfer of the obligations, liabilities, and assets of the district if the city council finds that as of the date of the meeting:

(1) at least 80 percent of the raw water diverted by the district in the preceding 12 months was diverted for use by the city or at least 80 percent of the revenue received by the district from diverting raw water during the preceding 12 months was received from the city;

- (2) the city is capable of assuming all rights and obligations of the district;
- (3) the city is capable of assuming responsibility for operating the district's facilities to benefit the district's existing customers and performing the services and functions performed by the district;
- (4) dissolution of the district will result in an overall cost savings to city residents; and
- (5) dissolution of the district will result in a more stable water supply for residents of the city and surrounding communities.

SECTION 4. HEARING REQUIRED. (a) Requires a city, before the city is authorized to hold an election under Section 5 of this Act or propose an ordinance described by Section 6 of this Act, to conduct a public hearing on the issue.

(b) Requires that notice of the public hearing be posted in accordance with the laws that apply to regular meetings of the city council, and mailed to each district's board of directors (board) member.

SECTION 5. ELECTION REQUIRED. (a) Requires a city, before the city is authorized to propose an ordinance described by Section 6 of this Act, to hold an election within the boundaries of the territory of the district to determine if the registered voters within those boundaries support the district's dissolution. Provides that for purposes of this section the territory of the district includes all district territory as of January 1, 2005, and any annexations of territory after that date and before the last date for voter registration for the election. Provides that notwithstanding any other law, all registered voters who reside within the boundaries of the territory of the district are eligible to vote in the election called under this section.

(b) Requires the city to adopt an election order providing for an election to be held in the territory of the district on the next uniform election date after the hearing conducted under Section 4 of this Act. Requires that the election ballot allow voting for or against the proposition to dissolve the district and to transfer all district obligations, liabilities, and assets to the city. Requires the city to contract with the county elections administrator as provided by Subchapter D (Contract for Election Services), Chapter 31, Election Code, to conduct the election.

(c) Prohibits the district from being dissolved and its obligations, liabilities, and assets from being transferred to the city unless a majority of the voters voting at the election held under this section vote in favor of the proposition described by Subsection (b) of this section.

SECTION 6. TRANSFER ORDINANCE. (a) Authorizes a city council, after the city council has made the findings required by Subsection (b), Section 3 of this Act, has conducted a public hearing as required by Section 4 of this Act, and has held an election under Section 5 of this Act at which the district's dissolution was approved by the registered voters within the district, to adopt an ordinance allowing the city to accept a transfer of the district's obligations, liabilities, and assets.

(b) Requires that the ordinance contain provisions that:

- (1) eliminate the required payment of any flat tax or assessments paid to the district by landowners in the district;
- (2) ensure that all water rights are held in trust by the city for the uses previously adjudicated;

(3) ensure that all individual water users are entitled to continue to use or have access to the same amount of water they were entitled to before the dissolution of the district;

(4) require the city to perform all the functions of the district, including the provision of services; and

(5) ensure delivery of water to landowners at or below the lowest comparable delivery charge imposed by any other irrigation district in Hidalgo County.

(c) Provides that the ordinance takes effect only if two-thirds of the city council votes in favor of the ordinance.

SECTION 7. CITY CONSENT; DISTRICT DUTIES. (a) Requires the district board, on or before the effective date of the ordinance described by Section 6 of this Act, to provide the district's management and operational records to the city that passed the ordinance to ensure the orderly transfer of management and operational responsibility to the city.

(b) Prohibits the district, without the consent of a majority of the members of a city council that publishes notice under Subsection (b), Section 4 of this Act, from:

(1) selling, transferring, or encumbering any district asset;

(2) issuing debt or acquiring additional obligations; or

(3) defaulting on or failing to honor financial, legal, or other obligations of the district.

(c) Requires the district, unless a majority of the members of a city council that publishes notice under Subsection (b), Section 4 of this Act, agree otherwise, to:

(1) maintain assets of the district in an appropriate condition reflective of good stewardship and proper repair; and

(2) preserve district records, including information maintained by the district in electronic format.

(d) Provides that any action undertaken by the district that does not comply with Subsection (b) of this section is void.

(e) Provides that this section expires on the date a city that has published notice under Subsection (b), Section 4 of this Act, repeals the city's ordinance described by Section 6 of this Act.

SECTION 8. EFFECTIVE DATE OF TRANSFER. Provides that a transfer ordinance under this Act takes effect on the date the city council approves the ordinance under Subsection (c), Section 6 of this Act.

SECTION 9. TRANSFER OF ASSETS. (a) Requires the district, on or before the effective date of a transfer ordinance under Section 8 of this Act, to:

(1) transfer to the city the ownership of any water rights and certificates of adjudication;

(2) transfer the assets, debts, and contractual rights and obligations of the district to the city;

(3) provide notice of the dissolution of the district to the Texas Commission on Environmental Quality (TCEQ); and

(4) provide notice and make recordings of the transfers under this section as required by the Water Code and other law.

(b) Requires TCEQ, on receipt of notice of the transfer of a district certificate of adjudication, to note in its records that the certificate of adjudication is owned and held by the city. Requires TCEQ to transfer the district's certificate to the city as a ministerial act without further application, notice, or hearing. Provides that a person or other legal entity does not have a right to object to or to request an administrative review of a transfer made in accordance with this Act.

(c) Provides that the transfer of the district's water rights and any certificate of adjudication to the city does not affect or impair the priority, extent, validity, or purpose of the water rights or certificate.

SECTION 10. EXPIRATION. Provides that this Act expires January 1, 2018.

SECTION 11. EFFECTIVE DATE. Effective date: upon passage or September 1, 2013.

EFFECTIVE DATE

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