

BILL ANALYSIS

C.S.S.B. 248
By: Schwertner
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that certain special utility districts should have more explicit powers with regard to dissolution. C.S.S.B. 248 seeks to provide procedures for the dissolution of certain districts so that local authorities can better accommodate the needs of growing and changing public service districts.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.S.B. 248 authorizes the board of directors of the Chisholm Trail Special Utility District, if a majority of the board votes to propose to dissolve the district, to issue notice of a hearing on a proposal to dissolve the district. The bill prohibits the district, if a lawsuit to which the district is a party is pending, from voting on the issue of dissolution during the period beginning on the date a hearing on the merits of the lawsuit concludes and ending on the date a judgment is entered in the lawsuit. The bill requires notice of the hearing, not later than the 14th day before the date set for the hearing, to be posted at the courthouse of each county in which the district is located and at the district's office and to be published at least one time in a newspaper of general circulation in each county in which the district is located. The bill requires the board, at the hearing held at the time and place stated in the notice, to hear all interested persons, to consider whether the best interests of the persons and property in the district will be served by dissolving the district, and to vote on whether to dissolve the district.

C.S.S.B. 248 requires the board, if two-thirds of the members of the board vote to dissolve the district, to enter a finding in its records that the district will be dissolved after completion of the process to transfer to the City of Georgetown the district's certificate of convenience and necessity and other assets and liabilities of the district under the bill's provisions. The bill requires the board, after the district's certificate of convenience and necessity and other assets and liabilities are so transferred to the city, to enter an order in its records dissolving the district. The bill requires the board, if two-thirds of the members of the board do not vote to dissolve the district, to enter an order in its records providing that the district is not to be dissolved.

C.S.S.B. 248 requires the city, on the date the board enters a finding that the district will be dissolved, to assume the following: control of the operation and management of the affairs of the district, to the extent that the operation and management was not previously assumed by the city

by contractual agreement; all rights, duties, and obligations of the district, including existing contracts, duties, assets, property, easements, financial obligations, and liabilities of the district, to the extent that those rights, duties, and obligations were not previously assumed by the city by contractual agreement; all files, records, and accounts of the district, including those that pertain to the control, finances, management, and operation of the district; and all permits, approvals, and licenses of the district. The bill requires a state agency, to the extent that the assumption of such an item requires the approval of a state agency, to grant approval without additional notice or hearing. The bill establishes that its provisions relating to the assumption of the operation, management, and assets and liabilities of the district do not enhance or harm the position of a contracting party.

C.S.S.B. 248 establishes that the board's order dissolving the district is final and prohibits the order from being appealed in any manner to any judicial, administrative, or other tribunal if the board's order is entered after the completion of the process to transfer the district's certificate of convenience and necessity, including any necessary approval of a state agency.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 248 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subchapter H, Chapter 65, Water Code, is amended by adding Section 65.7271 to read as follows:

Sec. 65.7271. DISSOLUTION OF DISTRICT FOLLOWING TRANSFER OF ALL OBLIGATIONS AND SERVICES.
The board may propose to dissolve the district and issue notice of a hearing on the proposed dissolution if the district's:
(1) certificate of convenience and necessity has been transferred to another political subdivision; and
(2) assets and liabilities have been transferred to or assumed by another political subdivision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle C, Title 6, Special District Local Laws Code, is amended by adding Chapter 7219 to read as follows:

CHAPTER 7219. CHISHOLM TRAIL SPECIAL UTILITY DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS
Sec. 7219.001. DEFINITIONS. In this chapter:
(1) "Board" means the district's board of directors.
(2) "City" means the City of Georgetown.
(3) "District" means the Chisholm Trail Special Utility District.
SUBCHAPTER B. DISSOLUTION OF DISTRICT
Sec. 7219.051. PROPOSAL FOR DISSOLUTION; NOTICE. (a) If a majority of the board votes to propose to dissolve the district, the board may issue notice of a hearing on a proposal to dissolve the district.

SECTION 2. Section 65.730, Water Code, is amended to read as follows:

Sec. 65.730. BOARD'S ORDER TO DISSOLVE DISTRICT. (a) For a dissolution hearing ordered under Section 65.727, if [H] the board unanimously determines from the evidence that the best interests of the persons and property in the district will be served by dissolving the district, the board shall enter the appropriate findings and order in its records dissolving the district. Otherwise the board shall enter its order providing that the district has not been dissolved.

(b) For a dissolution hearing ordered under Section 65.7271, if two-thirds or more of the members of the board vote to dissolve the district, the board shall enter the appropriate findings

and order in its records dissolving the district.

Otherwise the board shall enter its order providing that the district has not been dissolved.

(b) If a lawsuit to which the district is a party is pending, the district may not vote on the issue of dissolution during the period beginning on the date a hearing on the merits of the lawsuit concludes and ending on the date a judgment is entered in the lawsuit.

(c) Not later than the 14th day before the date set for the hearing, notice of the hearing must:

(1) be posted at the courthouse of each county in which the district is located and at the district's office; and

(2) be published at least one time in a newspaper of general circulation in each county in which the district is located.

Sec. 7219.052. HEARING AND ORDER.

(a) At the hearing, held at the time and place stated in the notice under Section 7219.051, the board shall:

(1) hear all interested persons;

(2) consider whether the best interests of the persons and property in the district will be served by dissolving the district; and

(3) vote on whether to dissolve the district.

(b) If two-thirds of the members of the board vote to dissolve the district, the board shall enter a finding in its records that the district will be dissolved after completion of the process to transfer to the city the district's certificate of convenience and necessity and other assets and liabilities under Section 7219.053. After the district's certificate of convenience and necessity and other assets and liabilities are transferred to the city under Section 7219.053, the board shall enter an order in its records dissolving the district.

(c) If two-thirds of the members of the board do not vote to dissolve the district, the board shall enter an order in its records providing that the district is not to be dissolved.

Sec. 7219.053. ASSUMPTION OF OPERATION, MANAGEMENT, AND ASSETS AND LIABILITIES OF DISTRICT. (a) On the date the board enters a finding under Section 7219.052(b) that the

district will be dissolved, the city shall assume:

(1) control of the operation and management of the affairs of the district, to the extent that the operation and management was not previously assumed by the city by contractual agreement;

(2) all rights, duties, and obligations of the district, including existing contracts, duties, assets, property, easements, financial obligations, and liabilities of the district, to the extent that those rights, duties, and obligations were not previously assumed by the city by contractual agreement;

(3) all files, records, and accounts of the district, including those that pertain to the control, finances, management, and operation of the district; and

(4) all permits, approvals, and licenses of the district.

(b) To the extent that the assumption of an item listed in Subsection (a) requires the approval of a state agency, the state agency shall grant approval without additional notice or hearing.

(c) This section does not enhance or harm the position of a contracting party.

Sec. 7219.054. REVIEW OF BOARD'S ORDER. The board's order dissolving the district is final and may not be appealed in any manner to any judicial, administrative, or other tribunal if the board's order is entered after the completion of the process to transfer the district's certificate of convenience and necessity, including any necessary approval of a state agency.

SECTION 3. 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, 2017.

SECTION 2. Same as engrossed version.