

BILL ANALYSIS

Senate Research Center
86R34943 AAF-D

C.S.H.B. 2590
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Intergovernmental Relations
5/18/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Statutory changes are needed regarding the appointment of temporary directors for a municipal utility district and the conversion of a conservation and reclamation district into a municipal utility district. C.S.H.B. 2590 seeks to address these issues by setting out provisions relating to the administration, powers, and duties of a municipal utility district.

C.S.H.B. 2590 amends current law relating to the administration, powers, and duties of water districts.

Note: Although the statutory references in this bill are to the Texas Natural Resources Conservation Commission (TNRCC), the changes made by this bill affect the Texas Commission on Environmental Quality as the successor agency to TNRCC.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 42.042(b), (f), (g), and (h), Local Government Code, as follows:

(b) Authorizes a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision, if the governing body fails or refuses to give its consent for the creation of the political subdivision, including a water district previously created by an act of the legislature, on mutually agreeable terms within 90 days after the date the governing body receives a written request for the consent, to petition the governing body to make available to the area the water, sanitary sewer services, or both that would be provided by the political subdivision. Makes a nonsubstantive change.

(f) Authorizes the applicant, if the municipality fails or refuses to give its consent to the creation of the political subdivision, including a water district previously created by an act of the legislature, or fails or refuses to execute a contract providing for the water or sanitary sewer services requested within the time limits prescribed by this section, to petition the Texas Commission on Environmental Quality (TCEQ), rather than Texas Natural Resource Conservation Commission (TNRCC), for the creation of the political subdivision or the inclusion of the land in a political subdivision. Requires TCEQ to allow creation or confirmation of the creation of the political subdivision or inclusion of the land in a proposed political subdivision on finding that the municipality either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner.

(g) and (h) Makes conforming changes to these subsections.

SECTION 2. Amends Section 49.107(d), Water Code, as follows:

(d) Authorizes the proposition in an operation and maintenance tax election to be for a specific maximum rate or for an unlimited rate. Requires a certain ballot for an operation and maintenance tax election to be printed to provide for voting for or against the proposition. Sets forth the required language of the ballot.

SECTION 3. Amends Section 49.351(a), Water Code, to authorize a district providing potable water or sewer services or facilities, rather than a district providing potable water or sewer service to household users, to, separately or jointly with another district, municipality, or other political subdivision, establish, operate, and maintain, finance with ad valorem taxes, mandatory fees, or voluntary contributions, and issue bonds for a fire department to perform all fire-fighting services within the district as provided in this subchapter and may provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply.

SECTION 4. Amends Section 54.022, Water Code, as follows:

Sec. 54.022. TEMPORARY DIRECTORS. (a) Creates this subsection from existing text.

(b) Requires a majority of temporary directors appointed under Subsection (a), except as provided by Subsection (c), to be residents of:

(1) the county in which the district is located;

(2) a county adjacent to the county described by Subdivision (1); or

(3) if the district is located in a county that is in a metropolitan statistical area designated by the United States Office of Management and Budget or its successor agency, a county in the same metropolitan statistical area as the county in which the district is located.

(c) Authorizes TNRCC to appoint temporary directors that do not meet the requirements of Subsection (b) if the petition or the application accompanying the petition provides that the petitioner made reasonable efforts but failed to identify candidates meeting those requirements who were willing to serve as temporary directors.

SECTION 5. Amends Section 54.030, Water Code, by amending Subsections (b) and (c) and adding Subsections (d) and (e), as follows:

(b) Requires the governing body of a district which desires to convert into a district operating under this chapter to, after providing notice in accordance with Section 54.032, hold a hearing on the question of the conversion of the district, rather than adopt and enter in the minutes of the governing body a resolution declaring that in its judgment, conversion, into a municipal utility district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution.

(c) Requires the governing body of the converting district to present a general description of any litigation that is pending against the district at the hearing under Subsection (b).

(d) Authorizes the governing body of the converting district, after the hearing held under Subsection (b), to adopt and enter in the minutes of the governing body a resolution declaring that in the judgment of the governing body, conversion under this subsection would serve the best interest of the district and would be a benefit to the land and property included in the district. Requires the resolution to also request that TNRCC approve the conversion of the district, rather than to hold a hearing on the question of the conversion of the district.

(e) Redesignates existing Subsection (c) as Subsection (e). Requires a copy of the resolution under Subsection (d) to be:

(1) creates this subdivision from existing text and makes a nonsubstantive change; and

(2) mailed to each state senator and representative who represents the area in which the district is located.

SECTION 6. Amends Section 54.032(a), Water Code, to require the governing body of a district described by Section 54.030(b) (relating to requiring the governing body of a district which desires to convert into a district operating under this chapter to adopt and enter in the minutes of the governing body a resolution declaring that in its judgment, conversion into a certain municipal utility district would serve the best interest of the district and would be a benefit to the land and property included in the district) to give notice of the conversion hearing by publishing notice in a newspaper with general circulation in the district, rather than requiring notice of the conversion hearing to be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located.

SECTION 7. Amends Section 54.033(a), Water Code, to require TNRCC, after receiving a request for the approval of a conversion under Section 54.030(d), rather than after a hearing, if TNRCC finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, to enter an order making this finding and the district is required to become a district operating under this chapter and no confirmation election is required, rather than. Makes a nonsubstantive change.

SECTION 8. Amends Section 54.234(a), Water Code, to provide that any district or any petitioner seeking the creation of a district may petition TNRCC to acquire the power under the authority of Article III, Section 52, Texas Constitution, to design, acquire, construct, finance, issue bonds for, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance, a road or any improvement in aid of the road, rather than a road described by Subsection (b) or any improvement in aid of the road.

SECTION 9. Amends the heading to Section 54.2351, Water Code, to read as follows:

Sec. 54.2351. **CONTRACTS WITH OTHER DISTRICTS, WATER SUPPLY CORPORATIONS, OR OTHER RETAIL PUBLIC UTILITIES.**

SECTION 10. Amends Section 54.2351, Water Code, by adding Subsection (i), as follows:

(i) defines "retail public utility" for purposes of this subsection. Authorizes a district to enter into a contract with a retail public utility for water or sewer service under which the retail public utility may use the district's water or sewer system to serve customers located in the district.

SECTION 11. Amends Section 54.801(a), Water Code, to authorize a district that is composed of at least 1,000 acres, rather than 1,500 acres, to define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as a whole.

SECTION 12. Amends Section 54.802(b), Water Code, to require the board of directors of a district to file an engineer's report for improvements in the defined area or to serve the designated property, rather than adopt a proposed plan for improvements in the defined area or to serve the designated property in the manner provided by Section 49.106 (Bond Elections).

SECTION 13. Amends Section 54.805, Water Code, as follows:

Sec. 54.805. **OBTAINING FUNDS TO CONSTRUCT, ADMINISTER, MAINTAIN, AND OPERATE IMPROVEMENTS AND FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY.** Authorizes the district, under the limitations of this subchapter, on adoption of the proposed plan as provided by this subchapter and voter approval of the imposition of taxes and issuance of bonds, rather than on adoption of the

plans as provided by Section 54.804 (Order Adopting Plans For Defined Area or Designated Property) of this code and voter approval the plans, to apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property to provide money to construct, administer, maintain, and operate improvements and facilities that primarily benefit the defined area or designated property.

SECTION 14. Amends Section 54.806(a), Water Code, as follows:

(a) Requires the bonds or taxes, before bonds may be issued or taxes may be imposed for the defined area or designated property, to be approved by the voters in the defined area or within the boundaries of the designated property, rather than providing that, before the adopted plans are authorized to become effective, they are required to be approved by the voters in the defined area or within the boundaries of the designated property. Requires the election to be conducted as provided by Section 49.106 for an election to authorize the issuance of bonds or Section 49.107 (Operation and Maintenance Tax) for an election to authorize the imposition of an operation and maintenance tax.

SECTION 15. Amends Section 54.809, Water Code, as follows:

Sec. 54.809. New heading: ISSUANCE OF BONDS AND IMPOSITION OF TAX FOR DEFINED AREA OR DESIGNATED PROPERTY. Authorizes the district, after approval by the voters, to issue bonds and impose taxes to provide the specific plant, works, and facilities included in the engineer's report for the defined area, or to serve the designated property, rather than authorizing the district, after the order is recorded, to issue its bonds to provide the specific plant, works, and facilities included in the plans adopted for the defined area, or to serve the designated property and shall provide the plant, works, and facilities.

SECTION 16. Amends Section 54.812(b), Water Code, as follows:

(b) Requires a certain prescribed notice to be inserted into the general notice after the first sentence. Sets forth the required language of the notice.

SECTION 17. Amends Section 6901.061(e), Special District Local Laws Code, to delete existing text providing that the simple majority vote approval required by Section 54.808(a) (relating to requiring a certified copy of the order to be recorded in the minutes of the district and to constitute notice), Water Code, does not apply to an election under this subsection.

SECTION 18. Amends Section 8130.151(b), Special District Local Laws Code, to make a conforming change.

SECTION 19. Amends Section 8176.151(b), Special District Local Laws Code, to make a conforming change.

SECTION 20. Amend Section 8198.151(b), Special District Local Laws Code, to make a conforming change.

SECTION 21. Amends Section 8261.151(b), Special District Local Laws Code, to make a conforming change.

SECTION 22. Amends Section 8413.151(b), Special District Local Laws Code, to make a conforming change.

SECTION 23. Amends Section 8467.151(b), Special District Local Laws Code, to make a conforming change.

SECTION 24. Repealer: Section 54.234(b) (relating to requiring the road to meet the criteria for a thoroughfare, arterial, or collector road of certain political subdivisions), Water Code.

Repealer: Section 54.803 (Notice of Adoption of Plans For Defined Area or Designated Property and Hearing), Water Code.

Repealer: Section 54.804(a) (relating to authorizing the board of directors of a municipal utility district, after the hearing is completed, to approve the proposed plans for the defined area or designated property or may modify the proposed plans), Water Code.

Repealer: Section 54.807 (Ballots), Water Code.

Repealer: Section 54.808 (Declaring Result and Issuing Order), Water Code.

SECTION 25. Provides that Section 54.022, Water Code, as amended by this Act, does not affect the entitlement of a temporary director serving on the board of directors of a municipal utility district under Chapter 54, Water Code, immediately before the effective date of this Act to continue to serve as a temporary director for the remainder of the director's term.

SECTION 26. Makes application of Chapter 54, Water Code, as amended by this Act, prospective.

SECTION 27. Effective date: September 1, 2019.