By:  Middleton (Senate Sponsor - Creighton) H.B. No. 3006

(In the Senate - Received from the House May 10, 2021; May 12, 2021, read first time and referred to Committee on Water, Agriculture & Rural Affairs; May 21, 2021, reported favorably by the following vote: Yeas 8, Nays 0; May 21, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Perry           X

Springer        X

Creighton       X

Eckhardt        X

Gutierrez                 X

Johnson         X

Kolkhorst       X

Powell          X

Taylor          X

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Trinity Bay Special Utility District and the powers and duties of the Trinity Bay Conservation District; providing authority to issue bonds; providing authority to impose assessments or fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. TRINITY BAY SPECIAL UTILITY DISTRICT

SECTION 1.01.  Subtitle C, Title 6, Special District Local Laws Code, is amended by adding Chapter 7223 to read as follows:

CHAPTER 7223. TRINITY BAY SPECIAL UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7223.0101.  DEFINITIONS. In this chapter:

(1)  "Board" means the district's board of directors.

(2)  "Director" means a member of the board.

(3)  "District" means the Trinity Bay Special Utility District.

Sec. 7223.0102.  NATURE OF DISTRICT; FINDINGS OF BENEFIT AND PURPOSE. (a) The district is a special utility district created in Chambers and Jefferson Counties under Section 59, Article XVI, Texas Constitution.

(b)  The district is created to serve a public use and benefit.

(c)  The district is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 7223.0103.  INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 1, Chapter 282, Acts of the 51st Legislature, Regular Session, 1949, as that territory existed on September 1, 2021, including any modifications made before that date under:

(1)  Subchapter J, Chapter 49, Water Code; or

(2)  other law.

(b)  The boundaries and field notes contained in Section 1, Chapter 282, Acts of the 51st Legislature, Regular Session, 1949, form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1)  organization, existence, or validity;

(2)  right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond; or

(3)  legality or operation.

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 7223.0151.  TEMPORARY DIRECTORS. (a) Not later than October 15, 2022, a temporary board of directors shall be appointed as follows:

(1)  three temporary directors appointed by the board of directors of the Trinity Bay Conservation District; and

(2)  two temporary directors appointed by the commissioners court of Chambers County.

(b)  A vacancy for a temporary director position shall be filled in the same manner as the initial appointment.

Sec. 7223.0152.  INITIAL DIRECTORS' ELECTION. Not later than September 1, 2023, the temporary directors shall hold an election to elect five directors.

Sec. 7223.0153.  INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 7223.0152 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 7223.0201 and which three shall serve until the second regularly scheduled election of directors.

Sec. 7223.0154.  EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2025.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7223.0201.  DIRECTORS. (a) The district is governed by a board of five elected directors.

(b)  To be eligible to serve as a director a person must reside in the district.

(c)  The board has all powers conferred on a board of directors under Chapter 65, Water Code.

(d)  Directors serve staggered terms of four years.

(e)  The Texas Commission on Environmental Quality may appoint a member of the board to fill a vacancy on the board.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7223.0301.  GENERAL POWERS AND DUTIES. (a) Except as provided by Subsection (b), the district has all rights, powers, privileges, functions, and duties provided by the general law of this state applicable to a special utility district created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 65, Water Code.

(b)  The district may not perform a function that may be performed by a drainage district operating under Chapter 56, Water Code.

ARTICLE 2. TRINITY BAY CONSERVATION DISTRICT

SECTION 2.01.  Chapter 282, Acts of the 51st Legislature, Regular Session, 1949, is amended by adding Section 1a to read as follows:

Sec. 1a.  (a) Except as provided by Subsection (b) of this section, the District has all rights, powers, privileges, functions, and duties provided by the general law of this state applicable to a drainage district created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 56, Water Code.

(b)  The District may not perform the same function as a conservation and reclamation district whose territory overlaps with the territory of the District.

SECTION 2.02.  Sections 9(j) and (k), Chapter 282, Acts of the 51st Legislature, Regular Session, 1949, are amended to read as follows:

(j)  To regulate [~~plumbing,~~] sewers and other drains used only for drainage purposes, and the construction, replacement, and operation thereof, and to abate any obstructions or encroachments thereof, for the protection and enhancement of the health, safety and welfare of the residents of the District.

(k)  To require the owner of a sewer [~~plumbing, sewers,~~] or other drain used only for drainage purposes who is [~~drains~~] found to be in violation of the rules and regulations of the District to fill up, cleanse, drain, alter, relay, repair, fix, or improve the same as may be ordered or required by any rule or regulation of the District; and in the event of any failure, neglect, or refusal to comply with such rule or regulation, or in the event there be no person in the District on whom the order to comply with such rule or regulation can be served, the District may, after not less than 30 days written notice to said owner, by either personal service or certified mail, have such work done and such improvements made on account of the owner thereof. All costs, charges, and expenses incurred by the District in accomplishing said work shall be a lien on the property upon which said work is done, on the filing of a memorandum of such by the President of the Board of Directors under the seal of the District, and recording the same with the County Clerk of the county in which the property lies. The District may enforce said lien and institute suit in its name and obtain judgment against said owner for the amount so due as aforesaid in any Court having jurisdiction.

SECTION 2.03.  Section 13(a), Chapter 282, Acts of the 51st Legislature, Regular Session, 1949, is amended to read as follows:

(a)  The District may adopt and enforce reasonable rules and regulations to:

(1)  [~~secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;~~

[~~(2)  preserve the sanitary condition of all water controlled by the District;~~

[~~(3)~~]  prevent waste or the unauthorized use of water controlled by the District; and

(2) [~~(4)~~]  regulate privileges on any land or any easement owned or controlled by the District.

SECTION 2.04.  Sections 9(g), 9(h), and 11, Chapter 282, Acts of the 51st Legislature, Regular Session, 1949, are repealed.

ARTICLE 3. TRANSITION AND NOTICE

SECTION 3.01.  (a) In this section:

(1)  "Conservation district" means the Trinity Bay Conservation District.

(2)  "Special utility district" means the Trinity Bay Special Utility District.

(b)  Not later than November 30, 2022, the conservation district and the special utility district shall enter into a memorandum of understanding regarding compensation to the conservation district for assets transferred under Subsection (c) of this section.

(c)  Not later than December 1, 2022, the conservation district shall:

(1)  transfer to the special utility district the conservation district's assets, debts, and contractual rights and obligations relating to the construction, acquisition, ownership, operation, maintenance, repair, improvement, and extension of facilities necessary to:

(A)  supply water for municipal uses, domestic uses, power and commercial purposes, and other beneficial uses; or

(B)  collect, transport, process, dispose of, store, and control domestic, industrial, or communal wastes whether in fluid, solid, or composite state; and

(2)  provide notice and make recordings of the transfers under this subsection as required by the Water Code, the Property Code, and other law.

(d)  On December 1, 2022, the powers, functions, and duties of the conservation district that may be exercised by the special utility district are transferred to the special utility district.

(e)  Following the transfer under Subsection (c) of this section:

(1)  Certificates of Convenience and Necessity Nos. 10997 and 20399 are considered to be held by the special utility district; and

(2)  the board of directors of the conservation district shall notify the Public Utility Commission of Texas of the transfer of Certificates of Convenience and Necessity Nos. 10997 and 20399 to the special utility district.

(f)  On receipt of notice under Subsection (e)(2) of this section, the Public Utility Commission of Texas shall note in its records that Certificates of Convenience and Necessity Nos. 10997 and 20399 are held by the special utility district and shall reissue the certificates in the name of the special utility district without further application, notice, or hearing. A person, party, or entity does not have any right of protest, objection, or administrative review of the transfer prescribed by this section.

(g)  The sale and transfer of the conservation district's assets, debts, and contractual rights and obligations under Subsection (c) of this section does not:

(1)  contravene a trust indenture or bond resolution relating to the district's outstanding bonds; or

(2)  diminish or impair the rights of a holder of an outstanding bond, warrant, or other obligation of the district.

(h)  Before December 1, 2022, the temporary board of directors of the special utility district:

(1)  may not take any regulatory action under Chapter 49 or 65, Water Code;

(2)  shall adopt rules for the administration of the special utility district under Chapters 49 and 65, Water Code; and

(3)  may hire employees of the special utility district.

SECTION 3.02.  (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.

ARTICLE 4. EFFECTIVE DATES

SECTION 4.01.  (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2021.

(b)  Article 2 of this Act takes effect December 1, 2022.

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