

SUBJECT: Taxing authority and other powers for certain water districts

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 7 ayes — Counts, Walker, Corte, Culberson, King, Moffat, Puente
0 nays
2 absent — Cook, R. Lewis

WITNESSES: For — Tom Leonard, Leonard & Hurt
Against — None
On — Sam Jones, Texas Natural Resource Conservation Commission

BACKGROUND : Water conservation and reclamation districts set up under one chapter of the Water Code can convert to water control and improvement districts (WCIDs) authorized under a different section of the code and still continue to exercise the specific powers provided by the chapter under which they originally operated. They may also keep their original name, rather than calling themselves WCIDs. The Denton County Freshwater Supply District is one example of a district that has undergone such a conversion.

Freshwater supply districts located in or adjacent to a county with a population of 1.18 million can be divided into two new districts as long as the district has no outstanding bonded indebtedness and is not levying property taxes. The board of such a district can order an election to determine if the district can assume the rights, authority, privileges and functions of a road district.

In 1995, the Denton County Freshwater Supply District divided into Denton County Freshwater Supply Districts 1A and 1B.

DIGEST: CSHB 2463 would allow certain converted districts to divide into two or more new districts, all of which would have the authority to call an election to impose sales and hotel occupancy taxes, undertake development projects, and exercise the power of a county development district. These districts also

could enter into franchise agreements with utilities and build roads inside or outside their boundaries.

The bill would apply only to those districts that converted to operating under Water Code WCID provisions on or before its effective date and that still retained the power of a freshwater supply district and was located in or adjacent to a county with a population of 1.18 million. To be eligible, the district could have no outstanding bonded indebtedness nor could it be levying property taxes. (A freshwater supply district in Denton County is the only known district that could qualify under the bill.)

A qualifying district would have to hold an election to divide, and each district resulting from the division could divide into two or more districts in the same manner.

A district board presented with a petition from all the land title holders in the district requesting a particular development project would have to set a hearing on the proposition no later than 60 days after receiving the petition. If the district board found that the project would attract visitors and tourists, the petition was valid, and the project feasible and necessary, an election would be called. Voters would be asked to vote for or against permitting the district to undertake the proposed project and impose a sales and use tax and hotel occupancy tax. If the voters approved the project and taxes, the governing body of the district could exercise the powers of a county development district.

Such a district also could acquire property through lease purchase contracts and annex land adjacent to it under certain circumstances. In order to annex property within the extraterritorial jurisdiction (ETJ) of a city, the district would have to obtain written consent of the city's governing board.

A district assuming the powers of a road district could acquire, construct or finance roads, bridges or drainage facilities inside or outside the boundaries of the district or inside the boundaries of a city, if the governing body of the city approved. The district could also enter into franchise agreements, grant licenses, grant rights-of way and enter into various agreements with public utilities and use revenue from those agreements for any purpose.

CSHB 2463 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

CSHB 2463 would allow certain districts to create jobs, foster economic development, and attract visitors and tourists to areas where they are sorely needed. Such a district could take advantage of innovative ways to finance and pursue development, encouraging such amenities as residential homes, hotels and a convention center. Such a development could be built and financed in planned stages, expanding as the project gained financing, support and momentum.

A district qualifying under CSHB 2463 would not erode the power of any city in the area, including the city of Lewisville. Lewisville has a consent agreement with the districts not to annex developments until they are fully completed. The city would be permitted under the agreement to direct the expenditure of taxes for projects desired by the city, such as a convention center. Oversight of expenditures made by the district would be provided by the city of Lewisville and the Texas Natural Resource Conservation Commission.

The bill would allow a district to leverage funding for beneficial development projects through taxes and franchise fees rather than having to increase city taxes for needed developments. Development projects and increased taxes could not be forced upon district residents; they would have to be proposed in a petition signed by every landowner in the district and approved by district voters.

There is no reason to go through the expense and difficulty of creating a different kind of district , such as a Municipal Utility District, to encourage development in the area when there is already a water district ready and able to take on the challenge.

**OPPONENTS
SAY:**

CSHB 2463 would give unprecedented power to a single water district, allowing it to impose sales and hotel occupancy taxes, collect franchise fees from public utilities and exercise the powers of county development districts. Water districts were originally created to bring services to areas in advance of city annexation. Creating districts with power to levy sales and hotel tax and collect franchise fees would make them almost equal to cities,

eroding county and municipal forms of government and creating powerful governmental entities that may be accountable to very few people since these kinds of districts are often located in sparsely populated areas.

Giving a water district the power of a county development district under the Tax Code would allow it to impose sales and hotel occupancy taxes and property taxes besides granting sweeping authority to promote economic development. Cities and counties are closely monitored by local voters whenever public money is used for the benefit of individuals or corporations. It would be more difficult to ensure that a water district with very few residents to keep an eye on it would invest tax dollars and franchise fees wisely. There are other more appropriate ways of fostering development, including creating municipal utility districts, county development districts, and economic development corporations. Furthermore, once a district received voter approval for an individual project, other developers in the area would have great difficulty competing with that project partially financed by tax dollars and franchise fees.

CSHB 2463 may intend to only help one particular district, but the statutory precedent that it would set would open the door to more limited use districts clamoring for expanded authority to assume powers traditionally reserved for governmental entities accountable to the populace.

NOTES:

Rep. Moffat intends to offer a floor amendment to CSHB 2463 that would require a district to gain approval from a city with ETJ or jurisdiction over the district before holding an election to authorize a sales or hotel occupancy tax. The city also would have to grant prior approval before the district constructed any facility or exercised any powers granted under the County Development District Act.

The committee substitute made substantial changes to the original version of the bill, adding provisions that only districts that had converted by the effective date of the bill could divide, requiring voter approval before a hotel occupancy tax could be imposed, specifying election and petition procedures, and requiring city consent before a district could build roads and bridges or annex territory within its ETJ.

