

BILL ANALYSIS

Senate Research Center

H.B. 3597
By: Williamson (Sibley)
Natural Resources
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Engrossed

DIGEST

Concern has been raised that an entity is needed in the rural areas of Parker County to provide for the orderly development of water and wastewater services. A utility district created under Section 59, Article XVI, Texas Constitution, with the powers of Chapters 49, 54, and 65, Water Code, would provide these needed services. S.B. 1944 creates the Parker County Utility District No. 1 for the rural areas of Parker and Wise counties to acquire wastewater and collection facilities; to build, operate, and maintain facilities to treat and transport wastewater; to protect and restore the purity and sanitary condition of water within the district; and to provide other utilities within the district that are not otherwise provided.

PURPOSE

As proposed, H.B. 3597 provides for the creation, administration, powers, duties, operation, and financing of the Parker County Utility District No. 1; and grants the power of eminent domain.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the board of directors of the Parker County Utility District No. 1 in SECTIONS 2.18 and 6.01(d); and to the Parker County Utility District No. 1 in SECTION 3.09(a) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CREATION OF THE DISTRICT

SECTION 1.01. CREATION. Provides that a regional wastewater district, to be known as the Parker County Utility District No. 1 (district), is created as a governmental body and a body politic and corporate. Provides that the district is created and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 1.02. DEFINITIONS. Defines "board," "bond," "customer," "director," "district," "local government," "member entity," "participant entity," "person," and "service area."

SECTION 1.03. PURPOSES. Establishes that the district is created to purchase, own, hold, lease or otherwise acquire wastewater collection facilities; to build, operate, and maintain facilities to treat and transport wastewater; to protect, preserve, and restore the purity and sanitary condition of water within the district; and to provide other utilities within the district if the utilities are not otherwise provided.

SECTION 1.04 BOUNDARIES. Provides that the district includes the territory contained in a certain area.

SECTION 1.05. FINDINGS RELATING TO BOUNDARIES. Provides that the legislature finds that the boundaries and field notes of the district form a closure. Sets forth the terms by which a mistake in the field notes does not affect the organization, existence, or validity of the district, or the legality or operation of the district or governing body.

SECTION 1.06. FINDING OF BENEFIT. Provides that all of the land and other property included

within the boundaries of the district will be benefited by the improvements, works, and projects that are to be accomplished by the district.

SECTION 1.07. FINDING OF STATE BENEFIT. Provides that the legislature finds that the creation of the district will benefit the state by contributing to economic development and diversification; decreasing the rate of unemployment and underemployment; stimulating agricultural innovation; fostering enterprise growth based on agriculture; and contributing to the development of transportation and commerce.

SECTION 1.08. POWERS. Establishes that, except as provided by this section, the district has all of the rights, powers, privileges, authority, functions, and duties provided by general law of this state; and prevails over any provision of general law that is in conflict with this Act. Prohibits the district from levying or collecting ad valorem taxes. Provides that the powers of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Natural Resource Conservation Commission (TNRCC). Authorizes the district, except as provided by this Act or other state law, to exercise the rights, powers, privileges, authority, functions, and duties conferred by this Act without having to obtain approval from TNRCC.

SECTION 1.09. CONFIRMATION ELECTION NOT REQUIRED. Provides that creation of the district does not require a confirmation election.

ARTICLE 2. ADMINISTRATIVE PROVISIONS

SECTION 2.01. APPOINTMENT OF DIRECTORS. Establishes that the district is governed by a board of directors (board) as provided by this section. Sets forth provisions and procedures regarding the appointment of directors.

SECTION 2.02. REMOVAL OF DIRECTORS. Authorizes the director to be removed for any reason by the governing body of the member entity that appointed the director or if three-quarters of the directors vote to remove the director.

SECTION 2.03. DIRECTOR QUALIFICATIONS. Sets forth the qualifications for serving as director.

SECTION 2.04. DIRECTOR VOTING. Sets forth voting requirements for a director.

SECTION 2.05. DIRECTOR COMPENSATION. Sets forth compensation requirements for a director.

SECTION 2.06. EX OFFICIO DIRECTORS. Authorizes the board to appoint ex officio members.

SECTION 2.07. EXCLUSIVE AUTHORITY OF BOARD. Provides that the board has exclusive authority to manage a district.

SECTION 2.08. POWERS AND DUTIES OF THE BOARD. Sets forth the powers and duties of the board.

SECTION 2.09. ELECTION OF OFFICERS. Sets forth procedures for electing officers.

SECTION 2.10. POWERS AND DUTIES OF OFFICERS. Sets forth powers and duties of the officers.

SECTION 2.11. DISTRICT EMPLOYEES. Authorizes the board to appoint and employ any person, firm, or entity determined necessary to conduct the affairs of the district.

SECTION 2.12. CONFLICT OF INTEREST. Provides that directors and officers are subject to Chapter 572, Government Code.

SECTION 2.13. OPEN RECORDS. Provides that Chapter 551, Government Code, applies to certain

records of the district.

SECTION 2.14. DISTRICT BUSINESS. Sets forth requirements for conducting district business.

SECTION 2.15. CUSTOMER ADVISORY COUNCIL. Authorizes the board to establish a customer advisory council (council). Sets forth constituency and powers of representatives on the council. Authorizes the council to be abolished by the board.

SECTION 2.16. ADMINISTRATION AND PLANNING COSTS FEE. Sets forth requirements for charging an administration and planning costs fee.

SECTION 2.17. EXPANSION OF DISTRICT BOUNDARIES. Sets forth requirements for expanding district boundaries.

SECTION 2.18. RULES AND REGULATIONS. Authorizes the board to adopt rules to perform duties of the district as provided by this Act.

ARTICLE 3. RIGHTS, POWERS, AND DUTIES

SECTION 3.01. RIGHTS IN SERVICE AREA. Authorizes the district to own, operate, and provide for certain services in certain circumstances.

SECTION 3.02. RIGHTS OF OTHER ENTITIES PROTECTED. Sets forth the rights of other entities in a service area.

SECTION 3.03. PURCHASE, CONSTRUCT, OR ACQUIRE WORKS AND FACILITIES. Authorizes the district to purchase construct, or acquire works and facilities that are necessary.

SECTION 3.04. FINANCING CAPITAL IMPROVEMENTS. Provides that the district is a political subdivision.

SECTION 3.05. ADDITIONAL POWERS. Sets forth additional powers of a district.

SECTION 3.06. EMINENT DOMAIN. Sets forth requirements and procedures for acquiring land by eminent domain.

SECTION 3.07. SERVICE OUTSIDE DISTRICT. Authorizes the district to provide services outside the district.

SECTION 3.08. DISPOSAL SYSTEMS. Authorizes the district to take certain actions with respect to waste disposal systems. Requires the district, if the district establishes a disposal system, to provide services from the system to certain persons.

SECTION 3.09. RULES RELATING TO WATER QUALITY. Authorizes the district to adopt rules relating to protection of water quality. Sets forth requirements of the rules.

SECTION 3.10. RATES, FEE, CHARGES, AND RENTALS. Authorizes the district to adopt, enforce, and collect certain rates, fees, charges, and rentals. Provides that the rates, fees, charges, and rentals may vary according to certain situations. Authorizes a district to require a customer to obtain a deposit from certain persons. Sets forth requirements for issuing revenue bonds. Authorizes a local government, water supply corporation, or other entity that enters into a contract with a district to take certain actions. Authorizes the district to discontinue services to prevent abuse or to enforce payment of an unpaid charge, fee, or rental due.

SECTION 3.11. REGULATORY POWER OF MUNICIPALITIES. Provides that the district is subject to certain rules and regulations.

SECTION 3.12. GENERAL CONTRACTING AUTHORITY. Authorizes a district to exercise certain actions.

SECTION 3.13. AUTHORITY TO CONTRACT WITH DISTRICT. Authorizes certain government authorities to enter into contracts with the district. Authorizes the governing body of an entity to pledge to the payment of the contract any source of revenue. Provides that certain payments constitute an operating expense.

SECTION 3.14. DEPOSITORY. Requires the board, by order or resolution, to designate one or more banks as a depository of funds. Requires funds to be deposited into the depository. Authorizes the board to invest in certain investments.

SECTION 3.15. JOINT AUTHORITY. Authorizes the district to take certain actions for purposes of accomplishing the objectives and exercising powers of the district.

ARTICLE 4. GENERAL FISCAL PROVISIONS

SECTION 4.01. AUDITS. Requires all funds and accounts of the district to be audited by an independent auditor. Requires a copy of an audit required under this section to be maintained in the official records of the district.

SECTION 4.02. CREATION EXPENSES. Authorizes the district to pay the costs and expenses incurred in obtaining the Walnut Basin Regional Wastewater Study and, if conducted, other feasibility studies and other costs and expenses incurred in creating and organizing the district. Authorizes the district to succeed to and assume rights, privileges, duties, and responsibilities of the City of Springtown and the Walnut Creek Special Utility District relating to the creation of the district.

SECTION 4.03. TAX EXEMPTION. Provides that the accomplishments of the purposes of the district benefit the people, property, and industry of the state. Provides that the district is performing an essential public function under the Texas Constitution by accomplishing the purposes of the district and is not required to pay any tax or assessment on any property or project owned, operated, leased, or controlled by the district or any part of that property, and the bonds or other obligations issued by the district under this Act and the transfer and income from those bonds or other obligations are free from taxation in the state.

ARTICLE 5. BONDS

SECTION 5.01. ISSUANCE OF BONDS. Authorizes the district to issue bonds to provide district funds to carry out the purposes and exercise the powers of the district. Authorizes the district to issue revenue bonds, notes, revenue anticipation notes, short-term obligations, refunding bonds, or other obligations without holding an election and on terms that the board determines to be appropriate.

SECTION 5.02. PAYMENT AND SECURITY. Sets forth permissible payments and security terms and conditions for the obligations issued under Section 5.01.

SECTION 5.03. TERMS AND CONDITIONS. Sets forth permissible and mandatory terms and conditions for bond and other obligations of the district.

SECTION 5.04. NEGOTIABLE INSTRUMENTS. Provides that obligations under this article are negotiable instruments for purposes of Chapter 8, Business & Commerce Code.

SECTION 5.05. PROCEEDS. Authorizes the proceeds from the sale of the bond or other obligation, if permitted in the resolution that authorized the issuance of the bond or other obligation, to be used for certain items. Authorizes the proceeds from the sale of bonds or other obligations to be placed on time deposit or invested as provided by the resolution that authorized the issuance of the bond or other obligation.

SECTION 5.06. MISCELLANEOUS. Provides that the district is an issuer as defined by Section 3.001, Article 717k-8, V.T.C.S. Requires bonds issued by the district under this Act and the appropriate proceedings authorizing the issuance of the bonds to be submitted to the attorney general for examination if required under Article 717k-8, V.T.C.S. Authorizes a copy of the contract and

the proceedings relating to the contract, if a bond issued by the district contains a recital that the bond is secured by a pledge of revenue derived from a contract, to also be submitted to the attorney general. Requires the attorney general, under certain conditions, to approve the bonds and, if submitted, the contract and the comptroller shall register the bonds. Provides that the bonds and the contract, under certain conditions, are incontestable in any court or other forum for any reason and are valid and binding obligations as provided by the terms of the obligation. Authorizes the district to issue bonds and other obligations as provided by Article 717k-9, V.T.C.S.

ARTICLE 6. ADDING TERRITORY TO THE DISTRICT

SECTION 6.01. ADDITION OF MEMBER ENTITIES. Authorizes the board, under certain conditions, to add a member entity to the district as provided by this section. Requires a petition to be submitted in the manner and form required by the district bylaws. Requires the board to give notice and hold a hearing on the petition to determine if adding the member entity to the district will benefit the territory or service area within the member entity; and is in the best interests of the district. Requires the board, under certain conditions, to issue a certain order. Requires the board to include in an order issued under Subsection (d) a certain requirement. Requires reimbursement under this subsection to be an equitable pro rata share of the costs paid by the existing member entities or the district.

SECTION 6.02. APPOINTMENT OF DIRECTORS BY NEW MEMBER ENTITY. Requires the governing body of the member entity, under certain conditions, to appoint the appropriate number of directors to the board as provided by Section 2.01(g) of Article 2 of this Act.

ARTICLE 7. MISCELLANEOUS PROVISIONS

SECTION 7.01. INITIAL DIRECTORS. Sets forth guidelines relating to the appointment of initial directors as required by Section 2.01(b) of Article 2 of this Act. Sets forth provisions regarding the services of the ex officio director as provided by Section 2.01(d) of Article 2 of this Act.

SECTION 7.02. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. Sets forth provisions pertaining to certain procedural requirements already accomplished in order to ensure proper passage of this bill.

SECTION 7.03. Emergency clause.
Effective date: upon passage.