

BILL ANALYSIS

Senate Research Center
78R8308 RCJ-D

C.S.S.B. 745
By: Williams
Natural Resources
4/3/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Current Texas law provides for the creation of conservation and reclamation districts which are authorized to incur indebtedness to provide permanent improvements and to levy taxes for the maintenance and operation of such improvements and for the repayment of such indebtedness. C.S.S.B. 745 creates a conservation and reclamation district to be known as East Montgomery County Municipal Utility District No. 4, of Montgomery County, Texas, over a portion of the land to be developed as a retail or commercial park and residential community in the eastern portion of Montgomery County.

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. DEFINITIONS. Defines "board" and "district."

SECTION 2. CREATION. (a) Creates a municipal utility district, to be known as East Montgomery County Municipal Utility District No. 4, in Montgomery County, subject to approval at a confirmation election under Section 9 of this Act.

(b) Provides that the district is a governmental agency and a political subdivision of this state.

SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) Provides that the district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) Provides that all of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

SECTION 4. BOUNDARIES. Provides that the district includes the territory contained within a certain area.

SECTION 5. FINDINGS RELATING TO BOUNDARIES. Provides that the legislature finds that the boundaries and field notes of the district form a closure. Provides that if a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not affect in any way certain plans and policies.

SECTION 6. APPLICABILITY OF OTHER LAW. Provides that this Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

SECTION 7. BOARD OF DIRECTORS. (a) Provides that the district is governed by a board of five directors.

(b) Provides that temporary directors serve until directors are elected under Section 9 of this Act.

(c) Provides that directors serve terms of office as provided in Section 49.103, Water Code.

(d) Requires each director to qualify to serve as director in the manner provided by Section 49.055, Water Code.

(e) Provides that a director serves until the director's successor has qualified.

SECTION 8. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Authorizes a person who owns land included in the district, on or after the effective date of this Act, to petition TCEQ to appoint the five temporary directors listed in the petition. Requires TCEQ to appoint the directors listed in the petition. Requires TCEQ, if it receives more than one petition under this subsection, to appoint the directors listed in the first petition it receives.

(b) Requires a person appointed to be a temporary director to take the oath of office as soon as practicable.

(c) Requires TCEQ to appoint an individual to fill the vacancy, if an appointee of TCEQ fails to qualify or if a vacancy occurs in the office of temporary director.

(d) Requires the directors to meet and elect officers from among their membership as soon as all temporary directors have qualified.

SECTION 9. CONFIRMATION AND DIRECTORS' ELECTION. (a) Requires the temporary board of directors to call and hold an election to confirm establishment of the district and to elect directors as provided by Section 49.102, Water Code.

(b) Provides that Section 41.001(a) of the Election Code does not apply to a confirmation and director's election held as provided by this section.

SECTION 10. ELECTION OF DIRECTORS. (a) Requires an election, on the uniform election date in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, to be held in the district for the election of the appropriate number of directors to replace the directors serving shorter terms from the confirmation election as provided by Section 49.102(h), Water Code.

(b) Requires the appropriate number of directors, on the uniform election date in May of each subsequent even-numbered year following the election, to be elected.

(c) Authorizes the board of directors by order to postpone the first election under Subsection (a) of this section following the confirmation and directors' election held in accordance with the provisions of Section 9 of this Act if certain conditions exist.

SECTION 11. GENERAL POWERS. Provides that the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

SECTION 12. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Requires the district, subject to the limitations of Section 54.016, Water Code, to comply with all applicable requirements of any ordinance or resolution adopted by any municipality in the corporate limits or extraterritorial jurisdiction of which the district is located, including an ordinance or resolution adopted before the effective date of this Act, that consents to the creation of the district or to the inclusion of lands within the district.

SECTION 13. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) Provides that 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. Provides that the governor, one of the required recipients, has submitted the notice and Act to TCEQ.

(b) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) Provides that 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.

SECTION 14. EFFECTIVE DATE; EXPIRATION DATE. (a) Effective date: September 1, 2003.

(b) Provides that if the creation of the district is not confirmed at a confirmation election held under Section 9 of this Act before September 1, 2008, this Act expires on that date.

SUMMARY OF COMMITTEE CHANGES

Differs in the relating clause by making a nonsubstantive change.

SECTION 1. Differs from the original by renumbering the proposed SECTION and adding DEFINITIONS.

SECTION 2. Differs from the original by renumbering the proposed SECTION and adding CREATION.

SECTION 3. Differs from the original by renumbering the proposed SECTION and adding FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

SECTION 4. Differs from the original by renumbering the proposed SECTION and adding BOUNDARIES.

SECTION 5. Differs from the original by renumbering the proposed SECTION and adding FINDINGS RELATING TO BOUNDARIES.

SECTION 6. Differs from the original by renumbering the proposed SECTION and adding APPLICABILITY OF OTHER LAW.

SECTION 7. Differs from the original proposed text by replacing “permanent directors” with “directors” and making nonsubstantive changes.

SECTION 8. Makes no change.

SECTION 9. Differs from the original proposed text by replacing “five permanent directors” with “directors.”

SECTION 10. Differs from the original proposed SECTION by replacing the proposed text in ELECTION OF DIRECTORS.

SECTION 11. Differs from the original proposed SECTION by replacing POWERS with GENERAL POWERS and deleting proposed text stating that this Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

SECTION 12. Differs from the original by renumbering the proposed SECTION and adding an amended COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS.

SECTION 13. Differs from the original by renumbering the proposed SECTION and adding an amended FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.

SECTION 14. Differs from the original by adding EFFECTIVE DATE; EXPIRATION DATE.