

BILL ANALYSIS

Senate Research Center
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S.B. 1810
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Natural Resources
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Homestead Municipal Utility District (MUD) is located in the unincorporated eastside area in the County of El Paso's regional water and wastewater plan. The Homestead MUD water distribution system is approximately a square mile and lies within a low density, economically depressed area that is just over a square mile.

The water system was reconstructed five years ago and will require improvements as the area continues to grow. Homestead MUD does not have a centralized wastewater collection system. On-site wastewater facilities (septic tanks and cesspools) are in place. Engineering estimates of the probable costs for a wastewater collection system range from \$6.9 to \$15 million. The estimate does not include construction of a new wastewater treatment plant required for the area.

Homestead MUD lacks the system capacity to attract and retain qualified administrators and key personnel. El Paso Water Utilities provides water under a wholesale water agreement to 1,438 metered customers and is supplied by East Montana Booster Station. Currently, the quality of water available exceeds the requirements of the Texas Commission on Environmental Quality.

As proposed, S.B. 1810 dissolves the Homestead MUD and transfers management of its water supply system to El Paso Water Utilities to promote a more efficient, effective, and less expensive method of providing water to East Montana. In the process, S.B. 1810 also allows for the continuation of low water rates, with the possibility of even lower rates due to the removal of existing administration costs. The El Paso Water Utilities has the capacity to administer and operate Homestead MUD.

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 "city," "district," "district board," and "executive director."

SECTION 2. TRANSFER OF ASSETS AND LIABILITIES; REQUEST FOR DISSOLUTION ORDER. (a) Authorizes the board of directors (district board) of the Homestead Municipal Utility District (district) to transfer to the City of El Paso (city) the district's assets and liabilities in accordance with the district's written request for El Paso Water Utilities to take over the management of its water supply system.

(b) Requires the district board, on favorable action of the El Paso Water Utilities Public Service Board, to notify the executive director of the Texas Commission on Environmental Quality (executive director) and request an order of dissolution.

(c) Requires the district board to provide the executive director with any information or documentation the executive director requests to monitor the district's progress toward the complete transfer of its assets and liabilities to the city.

SECTION 3. ORDER OF DISSOLUTION; TRANSFER OF ASSETS AND LIABILITIES. (a) Requires the executive director, on receipt of the notice and request from the city, to investigate to verify whether the parties have met all the necessary conditions for the transfer.

(b) Requires the executive director, after investigation, to issue an order of dissolution if the executive director makes certain determinations regarding the transfer.

(c) Requires the executive director, in issuing an order of dissolution under Subsection (b), to direct the district board to provide the city, the El Paso Water Utilities Public Service Board, and the secretary of state all transfer documents, including all deeds, easements, and bills of sale in the possession of the board, and any other information necessary or appropriate to transfer all district assets and liabilities to the city; to order the district dissolved; and to order that all assets and liabilities of the district be transferred to the city for incorporation into the city's water system.

(d) Provides that the consideration and adoption of an order of dissolution under this section is not a contested case under Chapter 2001 (Administrative Procedure), Government Code.

(e) Provides that the order of dissolution issued under this section is wholly sufficient and effective to accomplish the dissolution of the district and the transfer of its assets and liabilities to the city.

(f) Requires the executive director to file with the secretary of state and in the deed records of El Paso County a certified copy of the order of dissolution issued under this section together with a certified copy of the resolution of the city council accepting the transfer.

SECTION 4. COLLECTION OF MONEY OWED THE DISTRICT. Authorizes the city, on or after the date the dissolution order is issued under Section 3 of this Act, through the El Paso Water Utilities Public Service Board, to collect all money owed the district on the date the order is issued.

SECTION 5. RATES FOR SERVICE. (a) Authorizes the city, through the El Paso Water Utilities Public Service Board, to charge residents of El Paso County living in the service area formerly served by the district water supply rates that exceed the rates paid by water supply customers who are residents of the city if the higher rates are necessary or appropriate to fully cover the cost of service to the area, as determined by the El Paso Water Utilities Public Service Board.

(b) Authorizes the water supply rates the city, through the El Paso Water Utilities Public Service Board, charges residents of El Paso County living in the service area formerly served by the district to include an amount necessary to recover the costs of operation and maintenance of the water supply or improvements serving the area and debt service, including the cost of loans accepted to improve the water supply system serving the area, and a monthly water supply fee, if the district does not have surface water rights or potable water wells.

(c) Provides that Section 16.349 (Fees), Water Code, does not affect the amount of the fee charged under this section.

SECTION 6. VALIDATION. (a) Provides that all acts, resolutions, orders, instruments, obligations, and proceedings of the body serving as the district board before the effective date of this Act are in all respects validated, ratified, approved, and confirmed as of the date they were taken, adopted, authorized, issued, entered into, or delivered. Requires the acts, resolutions, orders, instruments, obligations and proceedings to be treated as though they had originally been authorized and accomplished in accordance with law.

(b) Authorizes an act, resolution, order, instrument, obligation, or proceeding to be held invalid if the body serving as the district board acted with knowledge that the action was illegal.

(c) Provides that this section does not apply to any matter that on the effective date of this Act is involved in litigation if in the course of the litigation the matter is held invalid by a final judgment of a court of competent jurisdiction or has been held invalid by a final judgment of a court of competent jurisdiction.

SECTION 7. EFFECTIVE DATE. Effective date: upon passage or September 1, 2005.