

BILL ANALYSIS

Senate Research Center

H.B. 2091
By: Hill (Wentworth)
Intergovernmental Relations
5/17/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The provision of adequate and necessary utilities in an area proximate to urbanized development is important to the health, safety, and welfare of higher density mixed use residential and retail communities. When there are utility providers in the region, public policy dictates that they be notified and have an opportunity to provide utility service on a regional basis that is both functional and affordable. Current law requires that before a special district is created to provide water, sewer, roadway, or drainage in the extraterritorial jurisdiction (ETJ) of a municipality, the municipality's consent is required to avoid duplication of utility services, roads, or provision of other services if they will be provided by the municipality. This is especially important if the area to be developed is in the planning area of the municipality of its ETJ.

It needs to be clarified that, if a district exists outside of the ETJ but wishes to expand into the ETJ of the municipality, the same protocol, procedure, and planning process may be employed to avoid the duplication of services.

H.B. 2091 clarifies that the expansion or annexation of territory by an existing district, if it is inside the ETJ of a municipality, must follow the same procedures as if it was being created.

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. Amends the heading to Subchapter C, Chapter 42, Local Government Code, to read as follows:

SUBCHAPTER C. CREATION OR EXPANSION OF GOVERNMENTAL ENTITIES IN EXTRATERRITORIAL JURISDICTION

SECTION 2. Amends Subchapter C, Chapter 42, Local Government Code, by adding Section 42.0425, as follows:

Sec. 42.0425. ADDITION OF LAND IN EXTRATERRITORIAL JURISDICTION OF MUNICIPALITY TO CERTAIN POLITICAL SUBDIVISIONS. (a) Prohibits a political subdivision, one purpose of which is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage, from adding land that is located in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this section and the Water Code. Prohibits the municipality, in giving its consent, from placing any conditions or other restrictions on the expansion of the political subdivision other than those expressly permitted by Section 54.016(e) (relating to a city's authorization to include certain information in a written notification), Water Code.

(b) Provides that the procedures under Section 42.042 governing a municipality's refusal to consent to the creation of a political subdivision apply to a municipality that refuses to consent to the addition of land to a political subdivision under this section.

(c) Prohibits an owner of land in the area proposed to be added to the political subdivision from unreasonably refusing to enter into a contract for water or sanitary sewer services with the municipality under Section 42.042(c).

(d) Provides that this section does not apply to a political subdivision created by Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 3. Amends the heading to Subchapter B, Chapter 54, Water Code, to read as follows:

SUBCHAPTER B. CREATION OR EXPANSION OF DISTRICT; CONVERSION OF
DISTRICT

SECTION 4. Amends Subchapter B, Chapter 54, Water Code, by adding Section 54.0165, as follows:

Sec. 54.0165. ADDITION TO DISTRICT OF LAND IN EXTRATERRITORIAL JURISDICTION OF MUNICIPALITY. (a) Prohibits a district from adding land that is located in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this subsection and Section 54.016. Prohibits a municipality, in giving its consent, from placing any conditions or other restrictions on the expansion of the political subdivision other than those expressly permitted by Section 54.016(e).

(b) Provides that the procedures under Section 54.016 governing a municipality's refusal to consent to the creation of a district apply to a municipality that refuses to consent to the addition of land to a district under this section.

(c) Prohibits an owner of land in the area proposed to be added to the district from unreasonably refusing to enter into a contract for water or sanitary sewer services with the municipality under Section 54.016(c).

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: upon passage or September 1, 2007.