

BILL ANALYSIS

Senate Research Center

H.B. 3814
By: Rodriguez, Eddie (Wentworth)
Administration
5/11/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3814 would exempt the Travis-Creedmoor Municipal Utility District (district) from the restriction that ties the district's tax rate to that of the city—a restriction that is currently preventing the district from issuing bonds to pay for infrastructure. Further, this bill would allow the district to negotiate bond sales in addition to selling bonds through a competitive bidding process.

Section 54.016(f), Water Code, provides that when a district to be located within a city's corporate limits enters into an allocation agreement with the city, then the combined property taxes levied by the district and the city cannot exceed the city's property tax rate. For this to occur, the city and the district may have to lower their ad valorem tax rate in order to levy a tax equal to what the city would have assessed on its own. The problem with this provision is that it could leave the district without enough revenue to repay its bonds, essentially stranding the district without a means to pay for water and waste water infrastructure. This bill makes Section 54.016(f), Water Code, inapplicable to the district.

Section 54.016 (Consent of City), Water Code, requires the consent of a city to allow a district to be created in the corporate limits of a city. The City of Creedmoor (city) gave written consent to the district by resolution on April 19, 2007, with the understanding that both the city and district would have the authority to assess their ad valorem taxes at the full rate. The district was approved by the legislature through S.B. 1660 (Wentworth/Rodriguez) effective May 21, 2007. The district was confirmed by an election held on May 10, 2008. The district began planning to issue bonds to pay for water and wastewater infrastructure in the district.

Subsequently, the Third Court of Appeals issued a decision on November 14, 2008, in the case of *Northwest Austin Municipal Utility District No. 1 v. City of Austin*, 274 S.W.3d 820 (Tex. App.—Austin 2008). The court ruled that if an agreement for consent to creation of a district contains an allocation different from Section 54.016, Water Code, (such as the understanding between the city and the district), then the tax rate must be brought into conformity with the limit in Section 54.016(f) on the combined tax rate, which cannot exceed the city tax rate. This limit on the district's tax rate caused the district to be unable to issue bonds in a reasonable amount to pay for its water and wastewater infrastructure.

H.B. 3814 amends the Special District Local laws Code to allow the district to negotiate bond sales in addition to competitive bids to counter the negative tax consequences of only having a few commercial taxpayers. The limited number of taxpayers may make it difficult to qualify for tax-exempt bonds under IRS regulations. Failure to qualify for tax-exempt bonds will cause the district to issue bonds at a higher interest rate, in which in turn increases the ad valorem taxes assessed against property owners. Competitive bid bond sales also must be scheduled well in advance. If the bond market appears to be unfavorable to the district's bond proposal, the sale cannot be easily changed as compared to a negotiated bond sale. Negotiated bond sales will allow the district to enter the bond market at the most advantageous times to obtain the lowest possible interest rate. Other local governmental entities in Texas are authorized to sell bonds by either competitive bid or negotiated sales as determined to be in the entity's best interest by the governing body.

H.B. 3814 amends current law relating to certain financial powers and duties of the Travis-Creedmoor Municipal Utility District.

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 Subchapter C, Chapter 8163, Special District Local Laws Code, by adding Section 8163.105, as follows:

Sec. 8163.105. NO ALLOCATION AGREEMENT. Provides that Section 54.016(f) (relating to authorizing a city to provide in its written consent for the inclusion of land in a district that a contract ("allocation agreement") between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district), Water Code, does not apply to the district.

SECTION 2. Amends Subchapter E, Chapter 8163, Special District Local Laws Code, by adding Section 8163.203, as follows:

Sec. 8163.203. BOND PROVISIONS. (a) Authorizes district bonds, notwithstanding any other law, to be sold at a public or private sale according to terms and procedures the board of directors of the Travis-Creedmoor Municipal Utility District (board; district) determines.

(b) Requires the board, in connection with the issuance of bonds, to:

(1) prescribe the maximum principal amount of bonds to be issued and the rate of interest the bonds may bear in accordance with Section 1204.006 (Maximum Interest Rate), Government Code;

(2) recite the public purpose for which one or more series of bonds are issued;

(3) delegate to an officer or employee of the district the authority to effect the sale of one or more series of bonds; and

(4) determine the period, not to exceed one year after the date the district adopts the order or resolution delegating the authority under Subdivision (3), during which that authority must be exercised.

(c) Authorizes an officer or an employee, in exercising the authority delegated by the board to an officer or employee, to establish the terms and details related to the issuance and sale of the bonds, including:

(1) the form and designation of the bonds;

(2) the principal amount of the bonds and the amount of the bonds to mature in each year;

(3) the dates, price, interest rates, interest payment dates, principal payment dates, and redemption features of the bonds; and

(4) any other details relating to the issuance and sale of the bonds as specified by the board in the proceedings authorizing the issuance of the bonds.

(d) Provides that a finding or determination made by an officer or employee acting under the authority delegated to the officer or employee has the same force and effect as a finding or determination made by the board.

SECTION 3. Provides that all requirements of the constitution and the 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 4. Effective date: upon passage or September 1, 2011.