

BILL ANALYSIS

Senate Research Center
84R26739 TSR-D

H.B. 4174
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Agriculture, Water & Rural Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Fort Bend County Water Control and Improvement District No. 2 (district) was created in 1946 by the State Water Board of Engineers. This local bill proposes to create a defined area within the district.

Water control and improvement districts may define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit the area or property and do not directly benefit the district as a whole. In designating a defined area, a district may use taxes and revenues derived from the defined area to specifically benefit the defined area.

H.B. 4174 establishes a defined area, grants the district the authority to engage in projects and services that uniquely benefit the defined area, and provides authority to issue bonds and impose assessments, fees, and taxes.

H.B. 4174 amends current law relating to the creation of a defined area in the Fort Bend County Water Control and Improvement District No. 2, provides authority to issue bonds, and provides authority to impose assessments, fees, and taxes.

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 Chapter 312, Acts of the 57th Legislature, Regular Session, 1961, by adding Sections 9 through 22, as follows:

Sec. 9. DEFINED AREA: CREATION OF DEFINED AREA; DESIGNATION. (a) Provides that a defined area is created in the Fort Bend County Water Control and Improvement District No. 2 (district).

(b) Provides that the defined area is designated to pay for improvements, facilities, or services that primarily benefit the defined area and do not generally benefit the district as a whole.

Sec. 10. DEFINED AREA: INITIAL TERRITORY. (a) Provides that the defined area is initially composed of the territory described by Section 2 of the Act enacting this section.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act enacting this section form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the defined area's organization, existence, or validity;

(2) the district's right to issue any type of bond or obligation for the purposes for which the defined area is designated, including to pay the principal of and interest on a bond;

(3) the district's right to impose or collect a tax in the defined area; or

(4) the legality or operation of the defined area or the district.

Sec. 11. DEFINED AREA: EXCLUSION OF LAND. Authorizes the district, subject to the City of Stafford providing written consent by ordinance or resolution, to exclude land from the defined area in the same manner as the district may exclude land from the district.

Sec. 12. DEFINED AREA: PROCEDURE FOR ELECTION. (a) Requires the governing body of the district, before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes of the defined area described by Section 9, to call and hold an election in the defined area only.

(b) Authorizes the governing body of the district to submit the proposition to the voters on the same ballot to be used in another election.

Sec. 13. DEFINED AREA: TAXES FOR SERVICES, IMPROVEMENTS, AND FACILITIES. Authorizes the district, on approval of the qualified voters in the defined area, to apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area to provide money to construct, administer, maintain, and operate services, improvements, and facilities that primarily benefit the defined area.

Sec. 14. DEFINED AREA: ISSUANCE OF BONDS. Authorizes the district, on approval of the qualified voters in the defined area, to issue bonds to provide for any land, improvements, facilities, plants, equipment, and appliances for the defined area.

Sec. 15. DEFINED AREA: POWERS AND DUTIES. (a) Provides that the district, for the benefit of the defined area, has the powers and duties provided by the general law of this state necessary to accomplish the purposes of:

(1) Section 59 (Conservation and Development of Natural resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution;

(2) Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III, Texas Constitution, applicable to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads; and

(3) except as provided by this chapter, Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

(b) Requires the governing body of the district, except as provided by Subsection (c), to administer the defined area as provided by Chapter 51, Water Code.

(c) Provides that Sections 51.518 (Defining Area and Designating Property to be Benefited by Improvements; Adopting Tax Plan), 51.519 (Notice and Hearing), 51.520 (Board's Order), 51.521 (Procedure for Election), 51.522 (Election Not Required in Separate Election Precinct), 51.523 (Ballots), 51.524 (Declaring Result and Issuing Order), 51.526 (Election in Separate Election Precinct), 51.527 (Issuance of Bonds and Levy of Tax for Defined Area or Designated Property), 51.528 (Contract to Provide Improvements, Facilities, and Services to Designated

Property or Area), and 51.529 (Authority of District), Water Code, do not apply to the district.

Sec. 16. DEFINED AREA: AUTHORITY FOR ROAD PROJECTS. Authorizes the district, under Section 52, Article III, Texas Constitution, to design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads, including roads located outside the boundaries of the defined area that benefit the defined area.

Sec. 17. DEFINED AREA: ROAD STANDARDS AND REQUIREMENTS. Requires that a road project meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

Sec. 18. DEFINED AREA: IMPROVEMENT PROJECTS AND SERVICES. Authorizes the district, for the benefit of the defined area, to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter.

Sec. 19. DEFINED AREA: ELECTIONS REGARDING TAXES AND BONDS. (a) Authorizes the district, for the benefit of the defined area, to issue, without an election, bonds, notes, and other obligations secured by revenue other than ad valorem taxes.

(b) Requires the district to hold an election in the defined area to obtain approval of the qualified voters of the defined area before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes in the defined area.

(c) Provides that an election under this section does not require that an election be held in the part of the district located outside the defined area.

(d) Provides that all or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 20. DEFINED AREA: OPERATION AND MAINTENANCE TAX. (a) Authorizes the district, if authorized by a majority of the voters in the defined area voting at an election held in accordance with Section 19, to impose an operation and maintenance tax on taxable property in the defined area in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code, for any district purpose, including to:

(1) maintain and operate the defined area;

(2) construct or acquire improvements; or

(3) provide a service.

(b) Requires the governing body of the district to determine the tax rate. Prohibits the rate from exceeding the rate approved at the election.

(c) Provides that Section 49.107(h) (providing that an operation and maintenance tax to be used for recreational facilities levied by a district located in a certain county may not exceed 10 cents per \$100 of assessed valuation of taxable property), Water Code, does not apply to the district.

Sec. 21. DEFINED AREA: AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district, for the benefit of

the defined area, to borrow money on terms determined by the governing body of the district.

(b) Authorizes the district to issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources of money from the defined area, to pay for any authorized district purpose.

(c) Provides that the limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645 (District in Certain Counties: Bonds for Recreational Facilities), Water Code, does not apply to the district.

(d) Requires the district to obtain approval from the Texas Commission on Environmental Quality as provided by Chapter 49, Water Code, before the district issues bonds to provide water, sewer, or drainage facilities for the benefit of the defined area.

Sec. 22. DEFINED AREA: TAXES FOR BONDS. Requires the governing body of the district, at the time the district issues bonds payable wholly or partly from ad valorem taxes from the defined area, to provide for the annual imposition of a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding as required and in the manner provided by Sections 51.433 (Tax Levy) and 51.436 (Interest and Sinking Fund), Water Code.

SECTION 2. Sets forth the boundaries of the defined area of the district.

SECTION 3. Provides that the Fort Bend County Water Control and Improvement District No. 2 (district) retains all the rights, powers, privileges, authority, duties, and functions that it had before the effective date of this Act.

SECTION 4. (a) Provides that the legislature validates and confirms all acts and proceedings of the district that were taken before the effective date of this Act.

(b) Provides that Subsection (a) of this section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

SECTION 5. 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 6. Effective date: upon passage or September 1, 2015.