

## **BILL ANALYSIS**

C.S.H.B. 1056  
By: Muñoz, Jr.  
Special Purpose Districts  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that a number of entities have lost the power of eminent domain due to a failure to comply with certain deadlines for submission of a claim to eminent domain authority to the comptroller of public accounts. C.S.H.B. 1056 seeks to address this issue in relation to certain water districts.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1056 amends the Special District Local Laws Code and Article 2, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, to authorize the Hidalgo County Irrigation District Nos. 5, 6, and 16, the Hidalgo County Municipal Utility District No. 1, and the Uvalde County Underground Water Conservation District to exercise the power of eminent domain only if the districts, respectively, submit applicable letters to the comptroller of public accounts not later than December 31, 2017, stating that the entities are authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the entities that authority. The bill requires such submissions to be in accordance with statutory requirements relating to an entity's letter to the comptroller confirming the entity's eminent domain authority, other than the requirement that the letter be submitted not later than December 31, 2012. The bill authorizes the districts, notwithstanding the expiration of the districts' authority to exercise the power of eminent domain for failure to submit such letters by the original deadline, to exercise the power of eminent domain as provided by law applicable to the respective districts on or after the 90th day after the date the respective districts submit the letters.

### **EFFECTIVE DATE**

September 1, 2017, if the bill receives the necessary vote.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1056 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. CERTAIN IRRIGATION DISTRICTS. Subtitle D, Title 6, Special District Local Laws Code, is amended.

SECTION 2. HIDALGO COUNTY MUNICIPAL UTILITY DISTRICT NO. 1. Subtitle F, Title 6, Special District Local Laws Code, is amended.

SECTION 3. VALLEY ACRES IRRIGATION DISTRICT. Chapter 261, Acts of the 52nd Legislature, Regular Session, 1951, is amended by amending Sections 1, 2, 3, 4, and 6 to read as follows:

Sec. 1. Under [~~and pursuant to the provisions of~~] Article XVI, Section 59, Texas [~~of the~~] Constitution, a conservation and reclamation district within the counties of Hidalgo and Cameron[,] is [~~hereby~~] created [~~and incorporated~~], to be known as "Valley Acres Irrigation District" and [~~"Valley Acres Water District" hereinafter~~] sometimes referred to in this Act as the "district." [~~"District."~~] The boundaries of the district [~~thereof~~] shall be as follows:

BEGINNING at the intersection of the West Right-of-Way line of the Main Canal of the Willacy County Water Control & Improvement District No. 1, with the South Right-of-Way line of the North Floodway of the International Boundary & Water Commission;

THENCE Southerly along the West Right-of-Way line of said Willacy County Water Control and Improvement District No. 1, Main Canal to Mile 12 of the North Capisallo District of the lands of the American Rio Grande Land & Irrigation Co.;

THENCE Westerly along said Mile 12, to the east Right-of-Way line of the West Levee of above stated North Floodway;

THENCE northerly along the east Right-of-Way line of said West levee of said North Flood Way to Mile 14-1/2 of lands of the American Rio Grande Land & Irrigation Co.;

THENCE along the Mile 14-1/2 of the North Capisallo District of lands of American Rio Grande Land & Irrigation Co., Easterly to the East Right-of-Way line of the East Levee of International Boundary and Water Commission North Floodway;

THENCE northerly and easterly along the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

No equivalent provision.

No equivalent provision.

easterly and southerly Right-of-Way line of said North Floodway to the place of BEGINNING, except:

(a) All land in the right of way of the International Boundary and Water Commission acquired for flood levees, containing 133.13 acres, more or less; and

(b) The following described land in the North Capiasallo District of the lands of the American Rio Grande Land and Irrigation Company:

All of Farm Tract No. 2304, except the S. 5.77 acres being 27.73 acres

The North 8.31 acres of the West 15.92 acres of Farm Tract No. 2312, being 8.31 acres

All of Farm Tract No. 2340 except that part in the flood-way-levee of the International Boundary and Water Commission, being 46.38 acres

All of Farm Tract No. 2346, containing 31.08 acres

All of Farm Tract No. 2347, containing 6.92 acres

The Southwest 3.77 acres of Farm Tract No. 2359,

containing 3.77 acres

Total 124.19 acres

The above lands described in Paragraph (b) hereof being more Particularly described in that certain deed dated September 25, 1950 and recorded in Volume 699, page 295, of the Deed Records of Hidalgo County, Texas.

Total of lands to be excepted under Paragraphs (a)

and (b) 257.32 acres

Leaving a total acreage within the above boundary in said Conservation and Reclamation District of 10,202.58 acres, more or less.

Sec. 2. (a) ~~The district has [District shall have and exercise, and is hereby vested with all of] the rights, powers, privileges, and duties provided [conferred and imposed] by the general law [laws] of this state, including Chapter 58, Water Code [State now in force or hereafter enacted], applicable to irrigation districts [Water Control and Improvement Districts] created under [authority of] Section 59, Article XVI, Texas [of the] Constitution.~~

(b) This Act prevails over any provision of [but to the extent that the provisions of any such] general law that is [laws may be] in conflict or inconsistent with [the provisions of] this Act [the provisions of this Act shall

No equivalent provision.

prevail. All such general laws are hereby incorporated by reference with the same effect as if incorporated in full in this Act].

Sec. 3. The district [~~management and control of the District~~] is governed by [~~hereby vested in~~] a board of directors [~~which shall have all of the powers and authority conferred and imposed upon Board of Directors of Water Control and Improvement Districts organized under the provisions of Chapter 51, Water Code. The Board of Directors shall be~~] composed of five [(5)] members who shall qualify to serve as directors in the same manner as elected directors qualify under Chapter 58 [~~Chapter 51~~], Water Code. [~~In the event, and to the extent that any of the provisions of the general laws referred to in this Section are in conflict with or inconsistent with any of the provisions of this Act relating to the powers, authority and duties of the Board of Directors and its members, the provisions of this Act shall prevail.~~] The commissioners of the Texas Commission on Environmental Quality [~~Water Commission~~] shall appoint the members of the board of directors [~~Board of Directors~~] to staggered four-year terms. The commissioners of the Texas Commission on Environmental Quality [~~Water Commission~~] shall appoint an individual to fill any vacancy on the board of directors [~~Board of Directors~~].

No equivalent provision.

Sec. 4. Bonds may be issued by the district [~~District~~] pursuant to a resolution [~~or resolutions~~] adopted by the board of directors, when the proposition authorizing the bonds shall have first been submitted to the property taxpaying voters of the district [~~such District~~] and adopted by not less than a majority of the [~~such~~] qualified voters voting at the [~~such~~] election. The district [~~District~~] may issue bonds [~~thus~~] authorized for any and all purposes permitted to irrigation districts [~~Water Control and Improvement Districts, including, but without limitation of purposes not specified, the following:~~

No equivalent provision.

[(a) ~~The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof or of irrigation thereof, or in aid of such purposes.~~

[(b) ~~The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purpose of irrigation, drainage or navigation or in aid thereof.~~

Bonds [~~Such bonds~~] may be issued to mature serially or otherwise as may be

determined by the board of directors, the maximum maturity date not to exceed 40 [~~forty (40)~~] years, and may be sold at a price and under terms determined by the board of directors to be the most advantageous reasonably obtainable, provided that the interest cost to the district, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six percent [~~per cent (6%)~~] per annum. Interest to accrue on the bonds for a period not to exceed three [~~(3)~~] years from their date, may be appropriated and paid from the proceeds from the sale of the bonds.

No bonds shall be issued by the district [~~District~~] until the record supporting the [~~such~~] bonds and the bonds shall first have been approved by the attorney general [~~Attorney General~~]. Bonds thus approved shall be registered in the office of the comptroller of public accounts [~~Comptroller of Public Accounts~~]. Bonds thus approved by the attorney general [~~Attorney General~~] after sale by the district [~~District~~] shall be fully negotiable instruments and shall be incontestable.

The bonds of the district [~~District~~] may be refunded, without the necessity of an election, either by the issuance and delivery to holders of refunding bonds in lieu of the outstanding bonds, or through the sale of refunding bonds and the use of the proceeds for retiring the outstanding bonds, provided that the average annual interest rate of the refunding bonds, calculated to maturity shall not be greater than the average interest rate of the bonds refunded, calculated to maturity, and provided the maximum maturity of the refunding bonds shall not exceed 40 [~~forty (40)~~] years.

The resolution [~~or resolutions~~] authorizing the issuance of the bonds may contain [~~such~~] covenants which in the discretion of the board of directors [~~Board of Directors~~] are necessary to assure the creation and maintenance of proper reserves and the payment of the principal of and interest on the bonds. Provisions of the law pertaining to the issuance of bonds by irrigation districts [~~Water Control and Improvement Districts~~] when not in conflict with the provisions of this Act shall apply [~~be applicable~~].

Sec. 6. (a) The district [~~District~~] shall have authority to acquire all property real and personal inside [~~within~~] or outside of the

No equivalent provision.

district [~~District~~] which in [~~within~~] the discretion of the board of directors [~~Board of Directors~~] is needed in accomplishing the objectives of the district. To [~~District and to~~] facilitate the acquisition of property, the district [~~it~~] shall have all of the powers of eminent domain available to irrigation [~~water control and improvement~~] districts under the general law.

(b) The district may exercise the power of eminent domain as provided by this section only if the district submits a letter to the comptroller not later than December 31, 2017, in accordance with the requirements of Section 2206.101(b), Government Code, other than the requirement that the letter be submitted by the date specified by that subsection.

(c) Notwithstanding the expiration of the district's authority to exercise the power of eminent domain under Section 2206.101(c), Government Code, the district may exercise the power of eminent domain as provided by law applicable to the district on or after the 90th day after the date the district submits a letter in accordance with Subsection (b).

No equivalent provision.

SECTION 3. UVALDE COUNTY UNDERGROUND WATER CONSERVATION DISTRICT. Article 2, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 2.08 to read as follows:

Sec. 2.08. EMINENT DOMAIN. (a) The district may exercise the power of eminent domain as provided by this section only if the district submits a letter to the comptroller not later than December 31, 2017, in accordance with the requirements of Section 2206.101(b), Government Code, other than the requirement that the letter be submitted by the date specified by that subsection.

(b) Notwithstanding the expiration of the district's authority to exercise the power of eminent domain under Section 2206.101(c), Government Code, the district may exercise the power of eminent domain as provided by law applicable to the district on or after the 90th day after the date the district submits a letter in accordance with Subsection (a).

SECTION 4. EFFECTIVE DATE. As provided by Section 17(c), Article I, Texas Constitution, this Act takes effect only on a

SECTION 4. Same as introduced version.

two-thirds vote of all the members elected to each house. If this Act receives the vote necessary to take effect, this Act takes effect September 1, 2017.