

BILL ANALYSIS

Senate Research Center

S.B. 1899
By: Galloway
Natural Resources
4-20-97
Committee Report (Substituted)

DIGEST

Currently, there is no established entity to coordinate flood control efforts between the county, state, and federal governments in regard to the Pine Island Bayou. The bayou is located in portions of Polk, Liberty, Jefferson, and Hardin counties. The bayou area has historically been subjected to severe flooding and drainage problems. In 1994, an estimated \$100 million of flood damage occurred in the region. A flood control district would help in the development of a comprehensive flood management program for the area. This bill would establish provisions for eligible residents of the Pine Island Bayou area to conduct an election authorizing the creation of the Pine Island Bayou Stormwater Control District.

PURPOSE

As proposed, C.S.S.B. 1899 establishes provisions for eligible residents of the Pine Island Bayou area to conduct an election authorizing the creation of the Pine Island Bayou Stormwater Control District.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the temporary board of directors of the Pine Island Bayou Stormwater Control District in SECTIONS 9(c) and (d) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. CREATION; LEGISLATIVE DECLARATION. Provides that a conservation and reclamation district to be known as the Pine Island Bayou Stormwater Control District (district) is created in Hardin, Jefferson, and Liberty counties, subject to approval at a confirmation election under SECTION 10 of this Act. Provides that the district is a governmental agency and a body politic and corporate. Provides that the district is created under and is essential to the accomplishment of the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 2. DEFINITION. Defines "district."

SECTION 3. BOUNDARIES. Sets forth the boundaries of the territory required to be included within the district. Authorizes the boundaries for the district to be adjusted after a benefits hearing as provided by SECTION 9 of this Act and before a confirmation election is held as provided by SECTION 10 of this Act.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. Provides that the legislature finds that the boundaries and field notes of the district form a closure. Provides that if any mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay principal of and interest on the bonds, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 5. FINDING OF BENEFIT. Provides that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. Provides that the district is created to serve a public use and benefit.

SECTION 6. POWERS. Provides that the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and 66, Water Code, applicable to stormwater control districts created under Section 59, Article XVI, Texas Constitution. Provides that the district has the rights, powers, privileges, authority, functions and duties provided by Chapter 56, Water Code. Provides that this Act prevails over any provision of general law that is in conflict or inconsistent with this Act. Provides that Chapter 66 prevails if there is a conflict between Chapter 56 and Chapter 66. Provides that the rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Natural Resource Conservation Commission (TNRCC).

SECTION 7. BOARD OF DIRECTORS. Provides that the district is governed by a board of seven directors (board). Provides that temporary directors serve until initial directors are elected under SECTION 10 of this Act. Provides that initial directors serve until permanent directors are elected under SECTION 11 of this Act. Provides that permanent directors serve staggered four-year terms. Requires each director to qualify to serve as director in the manner provided by Section 49.055, Water Code.

SECTION 8. TEMPORARY DIRECTORS. Provides that the temporary directors is composed of Warren Johnson, Norman Lowery, Claire Mason, Kenneth McFarland, Jeanie Turk, Burt Shivers, and Paul Fontenot. Requires the temporary directors who have qualified, if a temporary director fails to qualify for office, to fill the vacancy. Requires TNRCC, if at any time there are fewer than seven qualified temporary directors for any other reason, to appoint the necessary number of persons to fill all vacancies on the board. Requires the directors, as soon as all temporary directors have qualified, to meet and elect a chairman and vice chairman from among their membership and other officers as necessary.

SECTION 9. BENEFIT HEARING; APPEAL. Requires the temporary board of directors, as soon as practicable after all temporary directors have qualified and officers have been elected as provided by SECTION 8, to set a date for a hearing to determine whether the land to be included in the district will be benefited by the creation of the district. Requires the temporary board of directors to give notice of the hearing and to hold the hearing and issue an order stating its final decision in the manner provided by Chapter 2001, Government Code. Sets forth required notice publication guidelines. Requires the temporary board of directors, after the hearing and if the temporary board of directors finds that the creation of the district will be a benefit to land included in the district, to make that finding and, by order, to confirm the boundaries of the district as described in SECTION 3. Requires the temporary board of directors, in making its decision and if the temporary board of directors finds that a part of the land to be included in the district will not be benefited by creation of the district, to make this finding and, by order, to exclude the nonbenefited land from the proposed district and redraw the boundaries of the district to conform to this change. Requires the temporary board of directors to mail to TNRCC the order confirming or redrawing the boundaries of the district. Authorizes the order of the temporary board of directors confirming or redrawing the boundaries of the district to be appealed as provided by Chapter 200, Government Code.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires the temporary board of directors, after a hearing has been held and the temporary board of directors has confirmed or redrawn the boundaries of the district as provided by SECTION 9, to call and hold an election to confirm establishment of the district and to elect seven initial directors as provided by Chapter 49, Water Code. Provides that Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

SECTION 11. ELECTION OF DIRECTORS. Requires an election, on the first Saturday in May of the first even-numbered year after the year in which the confirmation election is held, to be held in the district for election at large of three directors who shall each serve two-year terms and four directors who shall each serve four-year terms. Requires the appropriate number of directors, on the same date in each subsequent even-numbered year, to be elected to the board. Authorizes the directors elected at the election described in Subsection (a) to assign a position number to each director's seat, after which directors shall be elected by position.

SECTION 12. **ADDITIONAL POWERS.** Authorizes the district as a stormwater control district to issue bonds to provide for all improvements and the maintenance of those improvements necessary to achieve the purposes of Section 59, Article XVI, Texas Constitution, and may provide for the payment of the bonds through ad valorem taxes and revenues collected for that purpose as authorized by Chapter 66, Water Code. Authorizes the district to acquire land, materials, waste grounds, easements, rights-of-way, and everything considered necessary for the purpose of accomplishing any one or more of the authorized functions of the district. Requires the district to have the right to acquire property, to include property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the plants, works, improvements, facilities, equipment, or appliances of the district. Authorizes the district to acquire either the fee simple title to or an easement on all land, both public and private, either inside or outside the boundaries and to acquire the title to or an easement on property other than land held in fee. Authorizes the district to lease property on terms and conditions the board determines to be advantageous to the construction, improvement, extension, enlargement, operation, or maintenance of the plants, works, improvements, facilities, equipment, or appliances of the district. Authorizes the district to acquire either the fee simple title to or an easement on all land, both public and private, either inside or outside the boundaries and to acquire the title to or an easement on property other than land held in fee. Authorizes the district to also lease property on terms and conditions the board of directors determines to be advantageous to the district. Authorizes the district to acquire any land, easements, or other property inside the district or within five miles of the district solely for sewer, water, storm drainage, and flood drainage connections when necessary by condemnation, and to elect to condemn either the fee simple title or an easement only.

SECTION 13. **FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.** Provides that the proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and the Act to TNRCC. Provides that TNRCC has filed its recommendations relating to this Act to the governor, lieutenant governor, and speaker of the house of representatives within the required time. Provides that all requirements of the constitution and 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 14. Emergency clause.
 Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

Revises the proposed relating clause.

SECTION 1.

Amends SECTION 1, to revise Subsections (a) and (b).

SECTION 3.

Amends SECTION 3, to revise Subsection (b).

SECTION 6.

Amends SECTION 6, to revise Subsection (a) and to omit Subsection (c).

SECTION 7.

Amends SECTION 7, to revise Subsections (b)-(e). Omits Subsection (f).

SECTION 8.

Amends SECTION 8, to set forth and revise proposed text relating to temporary directors. The text was originally set forth in SECTIONS 7(d) and (e). Omits text relating to the confirmation and directors' election originally set forth in SECTION 8.

SECTION 9.

Amends SECTION 9, to set forth and revise proposed text relating to benefit hearing and appeals. The text was originally set forth in SECTION 10.

SECTION 10.

Amends SECTION 10, to revise proposed text relating to the confirmation and initial directors' election. The text was originally set forth in SECTION 8.

SECTION 11.

Amends SECTION 11, to revise proposed text relating to the election of directors. The text was originally set forth in SECTION 9.

SECTION 12.

Amends SECTION 12, to set forth and revise proposed text relating to additional powers of the district. The text was originally set forth in SECTION 11. Adds Subsections (a), (e), and (f), and renumbers other subsections accordingly. Subsection (a) is similar to powers originally granted to the district in SECTION 6(c), relating to the issuance of bonds.

SECTIONS 13-14.

Text originally set forth in SECTIONS 12 and 13.