

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2959
By: Williams (Ogden)
Natural Resources
5/3/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

The Brookshire-Katy Drainage District (district) was created by the 57th Legislature in 1961 as a conservation and reclamation district with the rights and powers authorized by provisions regarding fresh water supply districts. Since that time, both the dynamics of the area and state law regarding special districts have changed. Clarifying the district's authority and updating the provisions affecting the district may better provide drainage and flood prevention for district residents. C.S.H.B. 2959 clarifies the district's authority and incorporates the changes that have occurred in the Water Code into the district's enabling legislation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Brookshire-Katy Drainage District in SECTION 5 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 203, Acts of the 57th Legislature, Regular Session, 1961, by adding Section 1A, to set forth legislative intent.

SECTION 2. Amends Chapter 203(2), Acts of the 57th Legislature, Regular Session, 1961, to include Chapters 49 (Provisions Applicable to all Districts) and 53 (Fresh Water Supply Districts), Water Code, among the laws governing the Brookshire-Katy Drainage District (district). Deletes text regarding district's powers.

SECTION 3. Amends Chapter 203(4), Acts of the 57th Legislature, Regular Session, 1961, as follows:

Sec. 4. Authorizes the Assessor and Collector of taxes of Waller County, for services of the district in assessing and collecting taxes for the district, to deduct from all taxes collected on the current year's tax rolls an amount of money to which the Board of Supervisors agrees, not to exceed the amount provided by the General Laws relative to the assessment, levy, and collection of ad valorem taxes. Provides that for the collection of delinquent taxes the Assessor and Collector is authorized to receive compensation in the same manner as the Assessor and Collector receives for collecting delinquent state and county taxes. Prohibits the Assessor and Collector from duplicating a charge made for costs of suit related to enforcement of state and county taxes. Deletes text regarding blanks used by the Assessor and Collector.

SECTION 4. Amends Chapter 203(5), Acts of the 57th Legislature, Regular Session, 1961, as follows:

Sec. 5. Requires taxes to be levied and collected under the provisions of the General Laws applicable to fresh water districts, including Chapters 49 and 53, Water Code, and when an election is required by the General Laws, before taxes may be levied or increased, the district is required to hold an election as provided by Section 49.107 (Operation and Maintenance Tax),

Water Code. Deletes text regarding taxes.

SECTION 5. Amends Chapter 203, Acts of the 57th Legislature, Regular Session, 1961, by adding Sections 6A, 6B, 6C, and 6D, as follows:

Sec. 6A. (a) Prohibits a person, on or after September 1, 2001, from constructing drainage facilities or improvements on or to serve a tract of land in the district unless the district has approved the plans and specifications for the drainage facilities or improvements.

(b) Provides that notwithstanding Subsection (a), plans and specifications for drainage facilities or improvements located within the corporate limits or the extraterritorial jurisdiction of a municipality require only the approval of the municipality if certain condition's are met.

(c) Authorizes the district to adopt reasonable rules and set reasonable standards to provide for adequate drainage construction in accordance with standard engineering practices. Authorizes the rules and standards to require the drainage plan to be generally compatible with the district's master plan.

(d) Authorizes the district by rule to establish procedures for presenting plans and specifications to the district and for review and disposition of the plans and specifications by the district.

(e) Requires the district, after review by its engineer, to determine the cost of any drainage facilities or improvements and recommend to the appropriate governing body of the jurisdiction over the subdivision that a surety bond or other approved security in that amount for the construction of drainage facilities or improvements be secured in the name of the governing body. Authorizes the district, if the governing body does not secure a bond, to secure a bond for the cost of construction of drainage facilities or improvements.

(f) Authorizes the district to refuse to approve plans and specifications that do not comply with district rules. Authorizes the district to refuse to approve plans and specifications until all applicable fees have been paid.

(g) Provides that this section does not apply to certain activities.

(h) Provides that this section does not limit the authority or jurisdiction of a municipality or county to regulate plans and specifications for the construction of drainage facilities or improvements other than facilities owned or maintained by the improvements other than facilities owned or maintained by the district. Provides that the district's rules and standards for the construction of drainage facilities or improvements do not apply to a facility or improvement not owned or maintained by the district inside the corporate limits of a municipality unless the governing body of the municipality or county requires the person to submit the plans and specifications for drainage construction to the district.

Sec. 6B. (a) Requires rules adopted by the district to be consistent with Chapters 49 and 53, Water Code.

(b) Prohibits the district from exercising its power of eminent domain outside the district without the express consent of the governing body of the municipality or the commissioners court of the county in which the territory being condemned is located.

Sec. 6C. (a) Provides that a person who violates this Act or a rule adopted under this Act is

liable to the district for certain penalties.

(b) Authorizes the district to sue in a district court to enjoin a violation or threatened violation of this Act or a rule adopted under this Act. Authorizes the district to sue for injunctive relief and a civil penalty in the same proceeding.

(c) Authorizes the court, if the district sues to recover a civil penalty or for injunctive relief under this Act, or to recover any fee or charge under this Act, to include in any final judgment in favor of the district and award for damages, the recovery of court costs, and reasonable attorney's fees.

Sec. 6D. Provides that Chapter 311 (Code Construction Act), Government Code, applies to this Act.

SECTION 6. Provides that the changes in law made by this Act do not invalidate, infringe on, or change the rights, duties, powers, or privileges of any municipality, county, or other political subdivision of this state as provided by the constitution of this state or other laws governing those political subdivisions.

SECTION 7. Provides that the maintenance tax authorized by the voters of Brookshire-Katy Drainage District is validated by this Act.

SECTION 8. (a) Provides that the changes in law made by Sections 1-6 of this Act take effect only on a majority vote in favor of the changes by the qualified voters of the Brookshire-Katy Drainage District at an election called and held for that purpose.

(b) Requires the board of supervisors of the Brookshire-Katy Drainage District to order an election on the question of approving the changes in law made by Sections 1-6 of this Act.

(c) Requires an election to be held on the next uniform election date under Section 41.001 (Uniform Election Dates), Election Code, that is on or after the 45th day following the date the election is ordered.

(d) Provides that Sections 1-6 of this Act take effect on the 45th day after the date of the election only if a majority of the votes cast at the election favor the changes in law made by Sections 1-6 of this Act.

(e) Authorizes the board of supervisors, if a majority of the votes cast at the election are against the changes in law made by Sections 1-6 of this Act, to call and hold a subsequent election to confirm those changes. Requires the subsequent election to be held, to the extent practicable, as provided by Subsections (c) and (d) of this section. Prohibits an election under this subsection from being held earlier than the first anniversary after the date on which the previous election was held. Provides that if the changes in law made by Sections 1-6 of this Act are not approved by the voters before September 1, 2003, this Act expires.

(f) Requires an election under this section, except as otherwise provided by this section, to be conducted as provided by the Election Code.

SECTION 9. (a) Effective date Sections 7-9: upon passage or September 1, 2001.

(b) Provides that Sections 1-6 take effect contingent on an election held in the Brookshire-Katy Drainage District as provided by Section 8 of this Act.

SUMMARY OF COMMITTEE CHANGES

SECTION 5. Amends As Filed H.B. 2959, Chapter 203 (Acts of the 57th Legislature, Regular Session, 1961, by amending proposed Section 6A(b).