

BILL ANALYSIS

Senate Research Center
77R14182 ATP-F

C.S.S.B. 1686
By: Jackson
Natural Resources
4/30/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Texas faces a difficult challenge in developing water policies that serve both state and regional interests. The Texas Constitution authorizes the creation of groundwater conservation districts to plan, develop, and regulate the use of water. C.S.S.B. 1686 creates the West Galveston Island Conservation District, subject to approval at a confirmation election, to manage Galveston County's groundwater resources.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of directors of the West Galveston Conservation District in SECTION 16 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. LEGISLATIVE FINDINGS; PURPOSES. Provides findings of purpose.

SECTION 2. CONSTRUCTION OF ACT. Requires this Act to be liberally construed in conformity with the findings and purposes in Section 1. Provides that, if any provision of general law is in conflict or inconsistent with this Act, this Act prevails. Provides that any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 3. DEFINITIONS. Defines "board," "bond," "commission," "county," and "district."

SECTION 4. GOVERNMENTAL AGENCY. Provides that the Bolivar Conservation District (district) is a governmental agency, a body politic and corporate, and a political subdivision of the state.

SECTION 5. BOUNDARIES OF THE DISTRICT. Sets forth the boundaries of the district.

SECTION 6. FINDINGS RELATING TO BOUNDARIES. Provides that the boundaries and field notes of the district form a closure. Provides that, if a mistake is made in the field notes or in copying the field notes in the legislative process, it does not affect the district's organization, existence, or validity; right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond; right to impose or collect an assessment or ad valorem taxes; or legality or operation.

SECTION 7. CONFIRMATION ELECTION. Sets forth guidelines regarding an election to approve or disapprove the creation of the district.

SECTION 8. ANNEXATION. Authorizes the district to annex land as provided by Subchapter J (Annexation or Exclusion of Land), Chapter 49, Water Code, subject to the approval of the commissioners court of Galveston County (county).

SECTION 9. EXCLUDING TERRITORY. Authorizes the board of directors of the district (board), at any time during which the district does not have outstanding bonds, to, on its own motion, call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 49J

(Annexation or Exclusion of Land), Water Code, if the board finds that the exclusions are practicable, just, or desirable. Requires the board to call a hearing on the exclusion of land or other property from the district if a landowner or property owner in the district files with the secretary of the board a written petition requesting the hearing before the issuance of bonds.

SECTION 10. BOARD OF DIRECTORS. Sets forth provisions regarding the board of directors of the district.

SECTION 11. GENERAL POWERS OF DISTRICT. Sets forth provisions regarding the powers of the district.

SECTION 12. SPECIFIC POWERS AND DUTIES OF DISTRICT. Sets forth guidelines regarding the specific powers of the district.

SECTION 13. USE AND ALTERATION OF LAND AND PUBLIC WAYS. Sets forth guidelines regarding use and alteration of land and public ways within the district.

SECTION 14. PROTECTION OF PUBLIC BEACHES. Sets forth provisions regarding the protection of public beaches.

SECTION 15. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain. Authorizes the county to exercise its power of eminent domain to implement a district facility or improvement.

SECTION 16. POWERS AND DUTIES OF BOARD. Provides that the responsibility for the management, operation, and control of the property belonging to the district is vested in the board. Authorizes the board to perform certain procedures.

SECTION 17. HEARINGS EXAMINER; ADMINISTRATIVE PROCEDURE ACT. Authorizes the board to appoint a hearings examiner to conduct any hearing called by the board, including a hearing required by Chapter 395 (Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments), Local Government Code. Authorizes the hearings examiner to be an employee of the district or a member of the board. Requires the hearing to be conducted in accordance with Chapter 2001 (Administrative Procedure), Government Code.

SECTION 18. GENERAL POWERS RELATING TO ASSESSMENTS; IMPROVEMENT PROJECTS. Authorizes the board to impose and collect an assessment for any purpose authorized by and in the manner provided by this Act if the commissioners court of the county approves the assessment. Authorizes the board to undertake an improvement project or service that confers a special benefit on all or a definable part of the district. Authorizes the board to impose and collect a special assessment on property in that area, based on the benefit conferred by the improvement project or service, to pay all or part of the cost of the project or service. Authorizes the board, if the board determines that there is a benefit to the district, to provide an improvement or service to an area outside the boundaries of the district. Prohibits the district from performing certain procedures.

SECTION 19. PROPOSED ASSESSMENTS. Authorizes an improvement project or service to be financed under this Act after notice of a hearing is given as required by Section 21 of this Act and the board holds a public hearing on the advisability of the improvement project or service and the proposed assessment.

SECTION 20. PETITION REQUIRED. Authorizes the board from financing an improvement project or service if a written petition is filed with the board requesting the improvement project or service. Requires the petition to be signed by at least 25 persons who own real property in the district if more than 25 persons own real property in the district according to the most recent certified property tax rolls.

SECTION 21. NOTICE OF HEARING. Requires notice of the hearing to be given in a newspaper with general circulation in the county by a certain date. Requires the notice to include certain items. Requires written notice containing the information required by this section to be mailed by certified mail, return receipt requested, by a certain date. Requires the notice to be mailed to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls or the address provided by the property owner for tax purposes.

SECTION 22. CONCLUSION OF HEARING; FINDINGS. Sets forth provisions regarding conclusions of hearings and findings by the board.

SECTION 23. AREA TO BE ASSESSED. (a) Authorizes the area of the district to be assessed according to the findings of the board to be the entire district or any part of the district and to be less than the area proposed in the notice of the hearing.

(b) Prohibits the area to be assessed, except as provided by Subsection (c), from including property that is not within the district boundaries at the time of the hearing unless there is an additional hearing preceded by the required notice.

(c) Authorizes the owner of improvements constructed or land annexed to the district after the district has imposed an assessment to waive the right to notice and an assessment hearing and to agree to the imposition and payment of an assessment at an agreed rate for improvements constructed or land annexed to the district.

SECTION 24. OBJECTIONS; IMPOSITION OF ASSESSMENT. (a) Requires the board, at a hearing on proposed assessments, to, at any adjournment of the hearing or after consideration of the hearings examiner's report, hear and rule on all objections to each proposed assessment.

(b) Authorizes the board to amend a proposed assessment for any parcel.

(c) Requires the board, after all objections have been heard and action has been taken with regard to those objections, to, by order or resolution, impose the assessment as a special assessment on the property and to specify the method of payment of the assessment. Authorizes board to provide that the assessment be paid in periodic installments, including interest.

(d) Requires periodic installments of the payments of an assessment to be in an amount sufficient to meet annual costs for services and improvements as provided by this Act and continue for the number of years required to retire indebtedness or pay for the services to be rendered. Authorizes the board to provide interest charges or penalties for failure to make timely payment and also to impose an amount to cover delinquencies and expenses of collection.

(e) Authorizes the board, if an assessment is imposed for more than one service or improvement project, to provide that an assessment collected for one improvement project or service is authorized to be borrowed to be used for another improvement project or service.

(f) Requires the board to establish a procedure for the distribution or use of any assessment in excess of those necessary to finance the improvement project or service for which the assessment was collected.

SECTION 25. APPORTIONMENT OF COST. Requires the portion of the cost of an improvement project or service to be assessed against the property in the district to be apportioned by the board based on the special benefits accruing to the property because of the improvement project or service. Sets forth guidelines regarding assessments of the cost.

SECTION 26. ASSESSMENT ROLL. Requires the board to impose the assessment against each parcel of land against which an assessment may be imposed in the district after the total cost of an improvement project or service is determined. Authorizes the board, with regard to an assessment for services, to impose an additional assessment that may be lower but not higher than the initial assessment. Requires the board to have an assessment roll prepared showing the assessment against each property and the board's basis for the assessment. Requires the assessment roll to be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

SECTION 27. INTEREST ON ASSESSMENTS; LIEN. (a) Provides that an assessment bears interest at a rate specified by the board that is prohibited from exceeding the interest rate permitted by Chapter 1204 (Interest Rate), Government Code.

(b) Requires interest on an assessment between the effective date of the order or resolution imposing the assessment and the date the first installment and any related penalty is payable to be added to the first installment. Requires the interest or penalties on all unpaid installments to be added to each subsequent installment until paid.

(c) Sets forth guidelines regarding assessments, reassessments or assessments resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, expenses of collection, and reasonable attorney's fees incurred by the district.

(d) Provides that the lien is effective from the date of the resolution of the board imposing the assessment until the assessment is paid. Authorizes the board to enforce the lien in the same manner that the board is authorized enforce an ad valorem tax lien against real property.

(e) Authorizes the owner of any property assessed to pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

SECTION 28. SUPPLEMENTAL ASSESSMENTS. Authorizes the board, after notice and hearing in the manner required for original assessments, to make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project or service or covering delinquencies or costs of collection.

SECTION 29. APPEAL. Sets forth guidelines regarding the appeal of an assessment.

SECTION 30. APPROVAL OF COMMISSIONERS COURT. Prohibits any assessment or ad valorem tax, or a combination thereof, including any apportionment of any assessment, from being valid or enforceable unless approved by the commissioners court.

SECTION 31. EXEMPTIONS. Prohibits the district from imposing an assessment on the property, equipment, or facilities of a public utility. Defines "utility" for purposes of this subsection.

SECTION 32. TAX FOR BONDS. Requires the board, at the time bonds payable wholly or partly from taxes are issued, to impose a continuing direct annual ad valorem tax, for each year that all or part of the bonds are outstanding on all taxable property within the district in a sufficient amount to pay the interest on the bonds as it becomes due and to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date and to pay the expenses of assessing and collecting the taxes.

SECTION 33. ESTABLISHMENT OF TAX RATE IN EACH YEAR. (a) Requires the board to consider certain factors in determining the actual rate to be levied in each year.

(b) Authorizes the board to make certain considerations in determining the amount of

anticipated taxes which should be levied each year. Requires the board to impose a tax in the first full year after issuance of its first series of bonds.

SECTION 34. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district to levy and collect a tax for operation and maintenance purposes, including funds for certain specific purposes.

(b) Prohibits an operation and maintenance tax from being imposed by the district until it is approved by a majority of the qualified voters within the district voting at an election held for that purpose. Authorizes the board, after the district's voters have authorized an operation and maintenance tax, to impose the tax and have it assessed and collected as other district taxes.

(c) Authorizes an operation and maintenance tax election to be held at the same time and in conjunction with any other district election. Authorizes the election to be called by a separate election order or as part of any other election order.

(d) Authorizes the proposition in an operation and maintenance tax election to be for a specific maximum rate or for an unlimited rate.

(e) Authorizes the funds, if the district has any surplus operation and maintenance tax funds that are not needed for the purposes for which they were collected, to be used for any lawful purpose.

SECTION 35. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES.

(a) Authorizes certain costs to be paid from certain funds.

(b) Authorizes the board, during the progress of an improvement project or service, to issue temporary notes to pay the costs of the improvement project or service and issue bonds on completion.

(c) Authorizes the costs of more than one improvement project or service to be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 36. BONDS. (a) Authorizes the board to issue bonds in one or more series payable from and secured by certain funds for the payment of certain costs. Authorizes bonds to be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments, ad valorem taxes, or from any other source pledged to their payment.

(b) Authorizes the district to have the power to issue bonds and requires the bonds to be approved in the manner set forth in Chapter 375J (Bonds), Local Government Code.

(c) Authorizes the board to issue and approve bonds without the consent of the county, any municipality, or the Texas Natural Resource Conservation Commission.

SECTION 37. ELECTION TO APPROVE ISSUANCE OF BONDS. (a) Prohibits certain bonds from being issued unless the bonds are approved by a majority of the qualified voters in the district voting at an election held for that purpose.

(b) Authorizes the bonds that are not secured by assessments or ad valorem taxes, or a combination thereof, to be issued without an election.

(c) Requires an election required by this section to be conducted in accordance with Chapter 375 (Municipal Management Districts in General), Local Government Code.

SECTION 38. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS.

Provides that construction contracts of the district are subject to the competitive bidding requirements of Subchapter I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code.

(b) Provides that this Act states the required procedures necessary for the district to award contracts and supersedes any law or other requirement with respect to the award of contracts.

SECTION 39. DISSOLUTION. Authorizes the board of the district, except as provided by Subsection (c) of this section, to dissolve the district at any time.

(b) Authorizes the commissioners court of the county, except as provided by Subsection (c) of this section, by a vote of not less than two-thirds, to adopt a resolution dissolving the district.

(c) Prohibits the district from being dissolved if the district has any outstanding bonded indebtedness until that bonded indebtedness is repaid or decreased in accordance with the order or resolution authorizing the issuance of the bonds.

SECTION 40. CONTRACTS WITH DISTRICT. (a) Authorizes certain entities, without further authorization, to contract with the district to implement a project of the district or aid and assist the district in providing the services authorized under this chapter. Sets forth guidelines for a contract under this section.

(b) Authorizes the district to enter into a contract, lease, or agreement with or make or accept grants and loans to or from certain entities.

(c) Authorizes the district to perform all acts necessary for the full exercise of the powers vested in the district on terms and conditions and for the term the board may determine to be advisable

SECTION 41. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. Presents legislative findings.

SECTION 42. INITIAL DIRECTORS. Provides that the initial board of directors of the district consists of certain persons.

SECTION 43. EFFECTIVE DATE. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 1686 to conform with Texas Legislative Council drafting format and adds new SECTION 14 regarding protection of public beaches.