

BILL ANALYSIS

Senate Research Center
78R8317 SGA-D

S.B. 1304
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Natural Resources
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DIGEST AND PURPOSE

Currently, potential property buyers have limited resources to determine whether land is included in a special district. Notice of the existence of a district is not required to be given until the confirmation election of the district. Also, a special district that is permitted to convert into another type of district is able to do so solely upon the order of this district's governing body, unless the district is trying to convert into a municipal utility district. In addition, certain districts are allowed to divide upon approval by the qualified voters in the district. As proposed, S.B. 1304 requires a certified copy of order creating a water district to be recorded in the county deed records, requires certain districts to obtain approval from the entity that would normally approve the creation of these districts before converting, and requires not only a vote by qualified voters before dividing, but also consent from the creating entity.

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 Sections 49.452(b), (c), and (d), Water Code, as follows:

(b) Requires the prescribed notice for districts located in whole or in part in the extraterritorial jurisdiction of one or more home-rule municipalities and not located within the corporate boundaries of a municipality to be executed by the seller and to read in a certain manner. Adds contact information to the information placed in the appropriate space. Makes a nonsubstantive change.

(c)-(d) Make conforming changes.

SECTION 2. Amends Section 51.021, Water Code, by adding Subsection (d) to require the commissioners court or the Texas Commission on Environmental Quality (TCEQ), as appropriate, within 15 days after the date of the order, to file with the county clerk, for filing in the county deed records of each county in which a part of the district is located, the order creating the water control or improvement district (district), if the commissioners court or TCEQ grants the petition requesting the creation of a district.

SECTION 3. Amends Section 51.032(b), Water Code, to require a certified copy of TCEQ's order granting a petition and naming the directors to be filed within 15 days after the date of the order in the office of the county clerk for filing in the county deed records of each county in which a portion of the district is located. Requires the filing to explain that the order creating the district is required to be confirmed and ratified by an election.

SECTION 4. Amends Section 51.040, Water Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the resolution to contain a list of powers the district desires to retain after conversion and to request certain actions from the commissioners court.

(c) Requires the district to file a copy of the resolution with the commissioners court or TCEQ, as applicable.

SECTION 5. Amends Chapter 51B, Water Code, by adding Section 51.0402, as follows:

Sec. 51.0402. SETTING OF DATE, TIME, AND PLACE OF CONVERSION HEARING. Requires certain persons, as applicable, to set a date, time, and place for a hearing on the conversion, promptly after the resolution requesting conversion is filed.

SECTION 6. Amends Section 51.041(a), Water Code, to require notice of the conversion hearing, rather than adoption of a resolution under Section 51.040 of this code, to be given by publishing notice, rather than the resolution, in a newspaper with general circulation in the county or counties in which the district is located.

SECTION 7. Amends Section 51.042, Water Code, as follows:

(a) Requires the commissioners court or TCEQ, rather than the governing body of the district, as applicable, if on a hearing it finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, to enter an order making this finding and to include in the order a list of the powers to be retained by the district after conversion that the commissioners court or TCEQ, as applicable, approves. Requires the order to also provide that conversion is not final unless the voters, in the election provided by Section 51.0422, confirm the conversion of the district. Deletes existing text related to requiring the district to become a district operating under this chapter.

(b) Makes a conforming change.

(c) Provides that finding of the commissioners court or TCEQ, as applicable, entered under this section are subject to appeal or review not later than the 30th day after the date the order approving or denying the conversation is entered into under this section. Deletes existing text related to the finding of the governing body of a district being final and not subject to appeal.

SECTION 8. Amends Chapter 51B, Water Code, by adding Section 51.0422, as follows:

Sec. 51.0422. CONVERSION ELECTION. (a) Requires the governing body of the district to order an election to be held in the district to confirm the conversion of the district, if the commissioners court or TCEQ, as applicable, finds in favor of the conversion of the district.

(b) Authorizes the conversion election to be held on the same day as any other district election.

(c) Requires notice of a conversion election to state the day and each place for holding the election and the proposition to be voted on.

(d) Requires the ballots for a conversion election to be printed to provided for voting for or against a certain proposition.

(e) Requires the presiding judge of each polling place to deliver the returns of the election to the governing body of the district, immediately after the conversion election. Requires the governing body to canvass the returns and declare the results at the earliest practicable time.

(f) Requires the governing body of the district to declare that the district is converted into a district operating under this chapter and enter the results in its minutes, if a majority of the votes cast in the election favor the conversion of the district.

(g) Requires the governing body of the district to file a copy of the order canvassing the results of the conversion election with certain persons.

SECTION 9. Amends Sections 51.044(a) and (b), Water Code, to make conforming changes.

SECTION 10. Amends the heading to Section 51.749, Water Code, to read as follows:

Sec. 51.749. APPROVAL OF DIVISION.

SECTION 11. Amends Section 51.749, Water Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the board of directors of the district (board) to submit a proposal for division to the entity that issued the order creating the district for approval. Requires the board, if the district was created by an act of the legislature, to submit a proposal for division to TCEQ.

(a-1) Created from existing text. Requires the board, if the entity that issued the order creating the district or TCEQ approves the division of the district, to order an election to be held in the district to determine whether the original district should be divided as proposed.

(d) Requires the board of the original district, within 15 days after the date of the election, to file with the county clerk, for filing in the county deed records of each county in which a part of the district is located, an order declaring the results of the election and dividing the original district, if the division of the original district is approved by a majority of the qualified voters of the district voting in the election.

SECTION 12. Amends Section 53.016, Water Code, to delete existing text “immediately” referring to requiring certain persons to set a time and place for a hearing on the petition by the commissioners court.

SECTION 13. Amends Section 53.019(a), Water Code, to authorize any person whose land is included in or would be affected by the creation of the district to appear and contest the creation of the district and offer testimony to show that the district is not necessary, would or would not be a public utility or benefit to land in the district, and would or would not be feasible or practicable, at the hearing on the petition. Deletes existing language related to sufficiency of the petition and all relative testimony.

SECTION 14. Amends Chapter 53B, Water Code, by adding Section 53.0195, as follows:

Sec. 53.0195. GRANTING OR REFUSING PETITION. (a) Requires the commissioners court to grant the petition requesting the creation of a district if it appears at the hearing that organization of the district as requested is feasible and practicable, the land to be included and the residents of the proposed district will be benefitted by the creation of the district, there is a public necessity or need for the district, and the creation of the district would further the public welfare.

(b) Requires the commissioners court, if the commissioners court fails to make the findings required by Subsection (a), to refuse to grant the petition.

(c) Authorizes the commissioners court to exclude those lands not to be benefitted and requires the commissioners court to redefine the boundaries of the proposed district to include only the land that will receive benefits from the district, if the commissioners court finds that any of the land sought to be included in the proposed district will not be benefitted by inclusion in the district.

SECTION 15. Amends Chapter 53b, Water Code, by adding Section 53.0196, as follows:

Sec. 53.0196. **FILING OF ORDER.** Requires the commissioners court, if the commissioners court grants a petition requesting the creation of a district, within 15 days after the date of the order, to file with the county clerk, for filing in the county deed records of each county in which a part of the district is located, the order creating the district. Requires the filing to explain that the order creating the district is required to be confirmed and ratified by an election.

SECTION 16. Amends Section 53.029(b), Water Code, to authorize a district covered by this section to be divided into two new districts if certain conditions apply. Makes conforming and nonsubstantive changes. Creates new Subsection (b-1) from existing text.

SECTION 17. Amends Section 53.040, Water Code, to require the newly elected supervisors in each new district to immediately file with the county clerk, for filing in the county deed records of each county in which a part of the district is located, an order declaring the results of the election and dividing the original district.

SECTION 18. Amends Chapter 53, Water Code, by adding Subchapter G, as follows:

SUBCHAPTER G. CONVERSION OF DISTRICTS

Sec. 53.231. **CONVERSION OF CERTAIN DISTRICTS INTO DISTRICTS OPERATING UNDER THIS CHAPTER.** (a) Authorizes any water control and improvement district created under Section 52, Article III (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), or Section 59, Article XVI (Conservation and Development of Natural Resources; Conservation and Reclamation of Districts), Texas Constitution, to be converted to a district operating under this chapter.

(b) Requires the governing body of a district that desires to convert into a district operating under this chapter to adopt and enter in the minutes of the governing body a resolution declaring that, in its judgment, conversion into a fresh water supply district operating under this chapter and under Section 59, Article XVI, Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district. Requires the resolution to also request the commissioners court to hold a hearing on the conversion of the district if the district is located entirely within one county or TCEQ to hold a hearing on the conversion of the district if the district includes land in more than one county.

(c) Requires the district to file a copy of the resolution with the commissioners court or TCEQ, as applicable.

Sec. 53.232. **SETTING OF DATE, TIME, AND PLACE OF CONVERSION HEARING.** Requires certain persons, as applicable, to set a date, time, and place for a hearing on the conversion, promptly after the resolution requesting conversion is filed.

Sec. 53.233. **CONVERSION OF DISTRICT; NOTICE.** (a) Requires notice of the conversion hearing to be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located.

(b) Requires the notice to be published once a week for two consecutive weeks with the first publication not less than 14 full days before the time set for a hearing.

(c) Requires the notice to state the time and place of the hearing, set out the resolution in full, and notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution.

Sec. 53.234. CONVERSION OF DISTRICT; FINDINGS. (a) Requires the commissioners court or TCEQ, if the commissioners court or TCEQ, as applicable, on a hearing, finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, to enter an order making this finding but providing that conversion is not final unless the voters, in the election provided by Section 53.235, confirm the conversion of the district.

(b) Requires the commissioners court or TCEQ, if the commissioners court or TCEQ, as applicable, finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, to enter an order against conversion of the district into one operating under this chapter.

(c) Provides that the findings of the commissioners court or TCEQ, as applicable, entered under this section are subject to appeal or review not later than the 30th day after the date the order approving or denying the conversion is entered under this section.

Sec. 53.235. CONVERSION ELECTION. (a) Requires the governing body of the district, if the commissioners court or TCEQ, if the commissioners court or the commission, as applicable, finds in favor of the conversion of the district, to order an election to be held in the district to confirm the conversion of the district.

(b) Authorizes a conversion election to be held on the same day as any other district election.

(c) Requires notice of a conversion election to state the day and each place for holding the election and the proposition to be voted on.

(d) Requires the ballots for a conversion election to be printed to provide for voting for or against a certain proposition.

(e) Requires the presiding judge of each polling place to deliver the returns of the election to the governing body of the district immediately after the conversion election. Requires the governing body to canvass the returns and declare the results at the earliest practicable time.

(f) Requires the governing body of the district to declare that the district is converted into a district operating under this chapter and enter the results in its minutes if a majority of the votes cast in the election favor the conversion of the district. Requires the governing body of the district to declare that the conversion of the district was defeated and enter the results in its minutes if a majority of the votes cast in the election are against the conversion of the district.

(g) Requires the governing body of the district to file a copy of the order canvassing the results of the conversion election with certain persons if certain conditions apply.

Sec. 53.236. EFFECT OF CONVERSION. Requires a district that converts into a district operating under this chapter to be constituted a fresh water supply district operating under and governed by this chapter, be a conservation and reclamation district under Section 59, Article XVI, Texas Constitution, and have and exercise all the powers, authority, functions, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter.

SECTION 19. Amends Section 54.021, Water Code, by adding Subsection (f) to require TCEQ, if TCEQ grants the petition requesting the creation of a district, within 15 days after the date of

the order, to file with the county clerk, for filing in the county deed records of each county in which a part of the district is located, the order creating the district. Requires the filing to explain that the order creating the district to be confirmed and ratified by an election.

SECTION 20. Repealer: Section 51.045, Water Code (Conservation of a District Operating Under this Chapter to a Fresh Water Supply District).

SECTION 21. (a) Makes application of Sections 49.452(b), (c), and (d), Water Code, as amended by this Act, prospective.

(b) Requires TCEQ, a commissioners court, or a governing body, as appropriate, not later than September 16, 2003, to comply with the filing requirements of Sections 51.021(d), 53.0196, and 54.021(f), Water Code, as added by this Act, and Section 51.032(b), Water Code, as amended by this Act, if before September 1, 2003, TCEQ, a county commissioners court, or the governing body of a district by order has granted a petition for or authorized the creation or division of a water control and improvement district, fresh water supply district, or municipal utility district, as applicable, subject to a confirmation election, and the election has not been held before that date.

(c) Makes application of Sections 51.040(b), 51.041(a), 51.042, and 51.044(a) and (b), Water Code, as amended by this Act, and Sections 51.040(c), 51.0402, and 51.0422, and Chapter 53G, Water Code, as added by this Act, prospective.

(d) Makes application of Sections 51.749(a) and 53.029(b), Water Code, as amended by this Act, prospective.

(e) Makes application of Sections 53.016 and 53.019(a), Water Code, as amended by this Act, and Section 53.0195, Water Code, as added by this Act, prospective to the effective date of Sections 12, 13, and 14.

SECTION 22. (a) Effective date: September 1, 2003, except as provided by Subsection (b).

(b) Effective date: upon passage or September 1, 2003, for Sections 12, 13, and 14.