

BILL ANALYSIS

Senate Research Center
79R16714 HLT-F

S.B. 1898
By: Deuell
Intergovernmental Relations
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1898 creates the Dallas County Municipal Utility District Number 3 (district), and to enumerate its powers, duties and obligations.

S.B. 1898 proposes the legislative creation of a municipal utility district (MUD) to be located entirely in Dallas County. Dallas County is a rapidly growing county that includes the city of Dallas, a major employment center, and an urban city in need of lower cost suburban housing. The proposed legislation includes already existing authorized powers from several Texas laws, combining them into this water district that will be suited to the development needs of the times and locale.

S.B. 1898 proposes to combine the traditional powers and duties of a MUD governed by Chapters 49 and 54, Water Code, with the road powers authorized under Article 3, Section 52, Texas Constitution, and the powers of divisibility in Chapter 53, Water Code.

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 Subtitle F, Title 6, Special District Local Laws Code, by adding Chapter 8141, as follows:

CHAPTER 8141. DALLAS COUNTY MUNICIPAL UTILITY DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8141.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8141.002. NATURE OF DISTRICT. Provides that the Dallas County Municipal Utility District No. 3 (district) is a municipal utility district in Dallas County created under and essential to accomplish the purposes of Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III, and Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution. Provides that the district is created to serve a public use and benefit.

Sec. 8141.003. CONFIRMATION ELECTION REQUIRED. Provides that certain results will occur relating to the status and debts of the district if the creation of the district is not confirmed at a confirmation election held under Section 8141.024 before September 1, 2007.

Sec. 8141.004. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. Provides that a mistake made in the field

notes or in copying the field notes in the legislative process does not affect certain aspects of the district.

[Reserves Sections 8141.005-8141.020 for expansion.]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8141.021. TEMPORARY DIRECTORS. (a) Sets forth the composition of the temporary board of directors of the district (board).

(b) Requires the temporary directors who have qualified for office, if a temporary director fails to qualify, to appoint a person to fill the vacancy. Requires the Texas Commission on Environmental Quality (TCEQ), if at any time there are fewer than three qualified temporary directors, to appoint the necessary number of persons to fill all the vacancies on the board.

(c) Sets forth the dates to which temporary directors serve.

Sec. 8141.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires the temporary directors, as soon as practicable after all the temporary directors have qualified under Section 49.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to convene the organizational meeting of the district at a location in the district agreeable to a majority of directors. Requires the organizational meeting to be at the Dallas County Courthouse if a location cannot be agreed upon.

Sec. 8141.023. CONSENT OF MUNICIPALITY REQUIRED. Prohibits the temporary directors from holding an election under Section 8141.024 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented to the creation of the district in accordance with Section 54.016 (Consent of City), Water Code, or until the requirements of Section 54.016, Water Code, for creating a district without the consent of the municipality are met.

Sec. 8141.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires the temporary directors, if the requirements of Section 8141.023 have been met, to hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102 (Confirmation and Director Election), Water Code.

Sec. 8141.025. INITIAL ELECTED DIRECTORS; TERMS. Require the directors elected under Section 8141.024 to draw lots to determine which two serve until the first regularly scheduled election of directors under Section 8141.052 and which three serve until the second regularly scheduled election of directors.

Sec. 8141.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 8141.027-8141.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8141.051. DIRECTORS; TERMS. Provides that district is governed by a board of five directors who serve staggered four-year terms.

Sec. 8141.052. ELECTION OF DIRECTORS. Requires the appropriate number of directors to be elected on the uniform election date in May of each even-numbered year.

[Reserves Sections 8141.053-8141.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8141.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. Provide that the district has the powers and duties provided by the general law of this state,

including Chapters 49 (Provisions Applicable to All Districts) and 59 (Municipal Utility Districts), Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8141.102. ROAD PROJECTS. (a) Authorizes the district to construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) Requires a road project to meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. Requires a road project, if the district is located outside the extraterritorial jurisdiction of a municipality, to meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located.

(c) Prohibits the district from undertaking a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by ordinance or resolution. Prohibits the district, if the district is located outside the extraterritorial jurisdiction of a municipality, from undertaking a road project unless each county in which the district is located consents by ordinance or resolution.

Sec. 8141.103. ROAD CONTRACTS. Authorizes the district to contract for a road project in the manner provided by Subchapter I (Constructions, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code.

Sec. 8141.104. WATER CONTROL AND STORAGE PROJECTS. (a) Authorizes the district to construct, acquire, improve, or maintain dams, embankments, reservoirs, lakes, or other improvements as necessary to control, store, or preserve water in the district for any useful purpose.

(b) Authorizes the district to overflow and inundate district lands and other district property in the district.

(c) Provides that a project authorized by this section is subject to all applicable permitting and regulatory requirements.

Sec. 8141.105. CERTIFICATE OF CONVENIENCE AND NECESSITY. (a) Authorizes the district to pay out of bond proceeds or other available district money all expenses, including legal, engineering, and surveying fees, related to obtaining a new certificate of convenience and necessity under Chapter 13 (Water Rates and Services), Water Code, authorizing the district to provide retail water or sewer service inside or outside the district.

(b) Authorizes the district to pay out of bond proceeds or other available district money all expenses, including the purchase price, related to acquiring certificate of convenience and necessity rights from another retail public utility to allow the district to provide water or sewer service in the district.

Sec. 8141.106. CONTRACT WITH POLITICAL SUBDIVISION FOR WATER OR SEWER SERVICES. (a) Authorizes the district to enter into a contract to allow a political subdivision to provide retail water or sewer service in the district. Authorizes the contract to contain terms the board considers desirable, fair, and advantageous to the district.

(b) Authorizes the contract to provide that the district will construct or acquire and convey to the political subdivision a water supply or treatment system, a water distribution system, or a sanitary sewage collection or treatment system, as necessary to provide water or sewer service in the district.

(c) Authorizes the district to use bond proceeds or other available district money to pay for its obligation and for services and facilities provided under the contract.

(d) Provides that contract is subject to Section 49.108 (Contract Elections), Water Code.

[Reserves Sections 8141.107-8141.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8141.151. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district to impose a tax for any district operation and maintenance purpose in the manner provided by Section 49.107 (Operation and Maintenance Tax), Water Code.

(b) Provides that Section 49.107(f), Water Code, does not apply to reimbursements for projects constructed or acquired under Section 8141.102.

Sec. 8141.152. TAX TO REPAY BONDS. Authorizes the district to impose a tax to pay the principal of and interest on bonds issued under Section 8141.201.

Sec. 8141.153. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of certain utilities and providers.

[Reserves Sections 8141.154-8141.200 for expansion.]

SUBCHAPTER E. BONDS

Sec. 8141.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS; TAX. (a) Authorizes the district to issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, and to finance certain costs.

(b) Authorizes the district to issue bonds or other obligations secured wholly or partly by ad valorem taxation to finance projects authorized by Section 8141.102 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Prohibits the district from issuing bonds or other obligations secured wholly or partly by ad valorem taxation to finance projects authorized by Section 8141.102 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(d) Prohibits bonds or other obligations issued or incurred to finance projects authorized by Section 8141.102 from exceeding one-fourth of the assessed value of the real property in the district.

(e) Provides that Sections 49.181 (Authority of Commission Over Issuance of District Bonds) and 49.182 (Commission Supervision of Projects and Improvements), Water Code, do not apply to a project undertaken by the district under Section 8141.102 or to bonds issued by the district to finance the project.

[Reserves Sections 8141.202-8141.250 for expansion.]

SUBCHAPTER F. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 8141.251. DIVISION OF DISTRICT; REQUIREMENTS. (a) Authorizes the district, including any annexed territory, at any time before the district issues indebtedness secured by taxes or net revenues, to be divided into two or more new districts.

- (b) Requires a new district created by division of the district to be at least 100 acres.
- (c) Authorizes the board to consider a proposal to divide the district on a petition of a landowner in the district or a motion by the board.
- (d) Requires the board to take certain actions relating to the division if the board decides to divide the district.

Sec. 8141.252. ELECTION FOR DIVISION OF DISTRICT. (a) Requires the board, after the board has complied with Section 8141.251(d), to hold an election in the district to determine whether the district should be divided as proposed.

- (b) Requires the board to give notice of the election not later than the 35th day before the date of the election. Requires the notice to state certain information.
- (c) Requires certain actions to be taken relating to the division of the district if a majority of the votes cast are in favor of the division.
- (d) Prohibits the district from being divided if a majority of the votes cast are not in favor of the division

Sec. 8141.253. ELECTION OF DIRECTORS OF NEW DISTRICTS. (a) Requires the board to make certain appointments not later than the 90th day after the date of an election in favor of the division of the district.

- (b) Provides that directors appointed under Subsection (a)(1) serve the staggered terms to which they were elected in the original district. Provides that directors appointed under Subsection (a)(2) serve until the election for directors under Subsection (c).
- (c) Requires, on the uniform election date in May of the first even-numbered year after the year in which the directors are appointed, an election to be held to elect five directors in each district for which directors were appointed under Subsection (a)(2). Requires the directors to draw lots to determine which two shall serve two-year terms and which three shall serve four-year terms.
- (d) Provides that, except as provided by Subsection (c), directors serve staggered four-year terms. Requires the appropriate number of directors to be elected on the uniform election date in May of each even-numbered year.

Sec. 8141.254. CONTINUING POWERS AND OBLIGATIONS OF NEW DISTRICTS. (a) Authorizes each new district to incur and pay debts and provides that each new district has all powers of the original district created by this chapter.

- (b) Provides that if the district is divided as provided by this subchapter, the current obligations and any bond authorizations of the district are not impaired. Requires debts to be paid by revenues or by taxes or assessments imposed on real property in the district as if the district had not been divided or by contributions from each new district as stated in the terms set by the board under Section 8141.251(d).
- (c) Requires any other district obligation to be divided pro rata among the new districts on an acreage basis or on other terms that are satisfactory to the new districts.

Sec. 8141.255. CONTRACT AUTHORITY OF NEW DISTRICTS. Authorizes the new districts to contract with each other for certain services.

SECTION 2. Sets forth the initial territory included in the district.

SECTION 3. 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 4. Effective date: upon passage or September 1, 2005.