

## **BILL ANALYSIS**

Senate Research Center  
82R22659 SLB-F

H.B. 3847  
By: Lavender (Elife)  
Natural Resources  
5/6/2011  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Riverbend Water Resources District was created by the 81st Legislature in 2009, and serves the citizens of Bowie and Red River counties. H.B. 3847 would restructure the district's board of directors and appoint a temporary administrator to oversee the transition to the new board.

H.B. 3847 amends current law relating to the Riverbend Water Resources District.

### **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 Section 9601.001, Special District Local Laws Code, by adding Subdivision (6) to define "temporary administrator."

SECTION 2. Amends Subchapter A, Chapter 9601, Special District Local Laws Code, by adding Section 9601.008, as follows:

Sec. 9601.008. MEMBER IMMUNITY. Provides that a member of the Riverbend Water Resources District (member; district) has immunity from suit and immunity from liability in any action or proceeding brought by another member arising out of or relating to the changes in law made by the Act enacting this section.

SECTION 3. Amends Section 9601.051, Special District Local Laws Code, by amending Subsections (b) and (f) and adding Subsections (b-1), (b-2), and (g), as follows:

(b) Provides that the board of directors of the district (board) consists of five directors, appointed as follows:

- (1) two directors appointed by the City of Texarkana;
- (2) one director appointed by the City of New Boston;
- (3) one director appointed by the Red River Redevelopment Authority or its successor; and
- (4) one director appointed by the members not named in Subdivisions (1) through (3), including any members added under Section 9601.005(b) (relating to adding a member to the district).

(b-1) Creates this subsection from existing text. Requires the governing body of each member required to appoint a director under Subsection (b)(1), (2), or (3) to appoint the required number of directors to represent the member on the board. Requires the members not named in Subsections (b)(1) through (3) to appoint a single director in the manner provided by Subsection (b-2) to represent those members on the board. Requires

a vacancy in a board position to be promptly filled in accordance with the policies, resolutions, and procedures of the applicable member or members.

(b-2) Authorizes the members not named in Subsections (b)(1) through (3) to each nominate a person qualified to serve as a director. Requires the governing body of each of those members to cast one vote for a candidate chosen from the list of nominees. Provides that the nominee receiving a majority of the votes cast by the governing bodies of those members becomes the director representing those members on the board.

(f) Prohibits a director from serving more than two consecutive terms. Prohibits a former director from serving again before the fourth anniversary of the last day of the director's previous term.

(g) Requires the initial directors to draw lots to achieve staggered terms, with three of the directors serving three-year terms and two of the directors serving four-year terms.

SECTION 4. Amends Section 9601.052, Special District Local Laws Code, as follows:

Sec. 9601.052. QUALIFICATIONS FOR OFFICE. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Provides that a person is not eligible to be appointed or to serve as a director while the person:

(1) is serving as an elected official of a political subdivision or other governmental body; or

(2) is an employee of a member.

SECTION 5. Amends Section 9601.057, Special District Local Laws Code, as follows:

Sec. 9601.057. RECALL. (a) Creates this subsection from existing text. Authorizes a director appointed under Section 9601.051(b)(1), (2), or (3) to be recalled at any time by a two-thirds vote of the governing body of the member that appointed the director.

(b) Authorizes a director appointed under Section 9601.051(b)(4) to be recalled by a two-thirds vote of the members that appoint a director under that section.

SECTION 6. Amends Chapter 9601, Special District Local Laws Code, by adding Subchapter B-1, as follows:

#### SUBCHAPTER B-1. TEMPORARY ADMINISTRATOR

Sec. 9601.071. DEFINITION. Defines, in this subchapter, "commission."

Sec. 9601.072. APPOINTMENT. Provides that on the effective date of the Act enacting this subchapter, Clyde M. Siebman is appointed as temporary administrator for the district, and the term of each person who is serving as a director expires on that date.

Sec. 9601.073. TERM. (a) Requires the temporary administrator to serve until the 180th day after the date that a board conforming to the structure described by Section 9601.051(b), as amended by the Act enacting this subchapter, is appointed and the directors have qualified.

(b) Authorizes the Texas Commission on Environmental Quality (TCEQ) to extend the term of the temporary administrator if TCEQ determines, after consultation with each state senator and representative who represents a district that includes territory in the district, that an extension is necessary to manage the transition between boards.

Sec. 9601.074. POWERS AND DUTIES. (a) Requires the temporary administrator to have the same powers and duties of the board, except that the temporary administrator is prohibited from issuing bonds.

(b) Requires the temporary administrator to:

(1) complete an inventory of:

(A) the contracts to which the district is a party, including an evaluation of the benefit to the district of each contract; and

(B) district assets and liabilities;

(2) retrieve district assets that are in the possession or under the control of persons not authorized by the temporary administrator, including keys, passwords, books, records, and personal, real, and intangible property;

(3) work to secure and protect the assets of the district;

(4) obtain a financial audit of the district;

(5) determine the current operational, functional, and financial condition of the district;

(6) recruit a qualified executive director and other management personnel;

(7) provide oversight and supervision of the board;

(8) provide for a program to educate the incoming board and management personnel on laws applicable to the district, sound management strategies, negotiation skills, conflict of interest policies and law, financial integrity, and contracting issues;

(9) develop and implement strategies to carry out the purposes of the district and to provide a safe, secure, and plentiful supply of water for use within the northeast area of this state;

(10) review and accept new member petitions from political subdivisions; and

(11) at least every three months, report to TCEQ on the progress of the duties described by this section.

(c) Requires the temporary administrator, in the period between the appointment of a new board and the end of the temporary administrator's term, to work cooperatively with the board in performing the duties under Subsection (b).

Sec. 9601.075. PERSONNEL. Authorizes the temporary administrator to employ persons to assist the temporary administrator in carrying out the duties assigned by this subchapter.

Sec. 9601.076. COMPENSATION AND REIMBURSEMENT. (a) Entitles the temporary administrator and any person hired under Section 9601.075 to reasonable compensation, based on the education, training, and experience of the person, and reimbursement of the reasonable and necessary expenses incurred in carrying out the duties assigned by this subchapter.

(b) Requires the district to pay the cost of compensation and reimbursement.

(c) Requires that the amount of compensation and reimbursement be determined by agreement of the temporary administrator and the board, except that before the appointment and qualification of the board as provided by Section 9601.051, as amended by the Act enacting this subchapter, the amount of compensation and reimbursement is required to be determined by agreement of the temporary administrator and the executive director of TCEQ. Requires TCEQ, in the event an agreement cannot be reached, to determine the compensation and reimbursement, after obtaining the approval of each state senator and representative who represents a district that includes territory in the district.

Sec. 9601.077. REMOVAL AND REPLACEMENT. Authorizes TCEQ, after obtaining the consent of each state senator and representative who represents a district that includes territory in the district, to remove the temporary administrator and:

- (1) appoint a new temporary administrator; or
- (2) return control of the district to the board.

Sec. 9601.078. IMMUNITY FROM SUIT. Entitles the temporary administrator to the same immunity from suit and liability that applies to a state district judge acting in a judicial capacity for acts or omissions undertaken in the course and scope of carrying out the duties assigned by this subchapter.

Sec. 9601.079. EXPIRATION OF SECTIONS. Provides that Sections 9601.071 through 9601.077 and this section expire September 1, 2013.

SECTION 7. Amends Section 9601.104(a), Special District Local Laws Code, to authorize a person, entity, public agency, county, municipality, or other political subdivision of this state or another state to enter into a contract or agreement with the district, on terms agreed to by the parties, for certain matters.

SECTION 8. Repealer: Section 9601.051(d) (relating to providing that a director who is also an elected official of a political subdivision serves for a term coinciding with the term of the elected office), Special District Local Laws Code; and

Repealer: Section 9601.059 (Board Position Not a Civil Office of Emolument), Special District Local Laws Code.

SECTION 9. Requires the City of Texarkana, the City of New Boston, the Red River Redevelopment Authority or its successor, and the members described by Section 9601.051, Special District Local Laws Code, as amended by this Act, to appoint members, as appropriate, to the board of directors of the Riverbend Water Resources District, not sooner than the 150th day and not later than the 180th day after the effective date of this Act.

SECTION 10. (a) Provides that the 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 under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, and Chapter 313 (Notice for Local and Special Laws), Government Code.

(b) Provides that the governor has submitted the notice and Act to TCEQ.

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) 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 11. Effective date: upon passage or September 1, 2011.