

BILL ANALYSIS

Senate Research Center
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S.B. 2185
By: Hinojosa
Local Government
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2185 is a local bill and only applies to Hidalgo County Water Improvement District No. 3 (district) and is bracketed to apply only to the City of McAllen.

The district was formed in 1921 for the purposes of providing water to serve agricultural interests. This entity is a political subdivision of the State of Texas and a public body with statutory duties. Today, 97 percent of the water the district pumps and delivers is to the City of McAllen, including a small handful of citizens and fewer than ten (10) of the limited number of farmers in the territory that still flood irrigate. The City of McAllen accounts for approximately 84.7 percent of the district's operating revenue. The district has outlived its purpose and is driving up the cost of supplying water to citizens and businesses. It is costing taxpayers of the City of McAllen over \$1 million per year for a layer of government that is no longer necessary for a growing city in 2021.

The bill sets forth an option for the City of McAllen to dissolve the district and upon dissolution take over its obligations, rights, operation, and responsibilities. The City of McAllen is positioned to continue to serve those few agricultural customers without any disruption of services. The bill also contains safeguards to ensure that all current customers and farmers of the district continue receiving services. Further, the bill eliminates any flat tax paid by farmers if the district is dissolved.

The district has a long history of mismanagement, as was identified by the State Auditor's Office in a report published in 2012. That report found that services were provided by businesses that were owned or operated by the individual who is both general manager of the district and president of the board of directors for the district. This is a conflict of interest and should not be permitted for any governmental entity. Not much improvement has been made since 2012. In 2019, the annual audit of the district again identified issues with procurement, including several purchases made without written approval. The general manager and the board of directors continue failing in their responsibility to follow procurement policies for contracts and remain inconsistent with handling matters regarding potential conflicts of interest.

Year after year the citizens of McAllen support an obsolete, burdensome, and unnecessary layer of government. The district has outlived its purpose, lacks proper oversight, and is an unnecessary waste of taxpayer funds.

As proposed, S.B. 2185 amends current law relating to procedures for the dissolution of the Hidalgo County Water Improvement District No. 3.

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. DEFINITIONS. Defines "city," "city commission," and "district."

SECTION 2. DISTRICT AND MUNICIPALITY TO WHICH ACT IS APPLICABLE. Provides that this Act applies only to:

- (1) the Hidalgo County Water Improvement District No. 3 (district); and
- (2) a municipality that has a population greater than 100,000 and that contained on April 1, 2021, within its corporate boundaries or extraterritorial jurisdiction more than half of the district's territory.

SECTION 3. TRANSFER OF ASSETS AND DISSOLUTION OF DISTRICT. (a) Provides that on the date the governing body of the city (city commission) passes an ordinance accepting the assets, debts, and contractual rights and obligations of the district all assets, debts, and contractual rights and obligations of the district are property of the city and the district is dissolved.

(b) Requires that the ordinance contain provisions that:

- (1) eliminate the required payment of any flat tax or assessments paid to the district by landowners in the district;
- (2) ensure that all water rights are held in trust by the city for the uses previously adjudicated;
- (3) ensure that all individual water users are entitled to continue to use or have access to the same amount of water they were entitled to before the dissolution of the district;
- (4) require the city to perform all the functions of the district, including the provision of services; and
- (5) ensure delivery of water to landowners at or below the lowest comparable delivery charge imposed by any other irrigation district in Hidalgo County.

(c) Provides that on the date of the dissolution of the district, and notwithstanding Section 51.790 (Water Rights of Dissolved District), Water Code, ownership of any certificate of adjudication held by the district, including any attachments or amendments to the certificate, transfers to the city.

(d) Requires the city to notify the Texas Commission on Environmental Quality (TCEQ) of the dissolution of the district and the transfer of any certificate of adjudication held by the district to the city.

(e) Requires TCEQ, on receipt of notice under Subsection (d) of this section, to note in its records that a certificate of adjudication transferred under Subsection (c) of this section is owned by the city. Requires TCEQ, as a ministerial act, to transfer the certificate to the city without further application, notice, or hearing. Provides that a person, party, or entity does not have any right of protest, objection, or administrative review of the transfer prescribed by this Act.

(f) Provides that the transfer of the district's water rights and any certificate of adjudication to the city does not affect or impair the priority, extent, validity, or purpose of the water rights or certificate.

SECTION 4. TRANSFER OF ASSETS. Requires the district, on or before the effective date of the dissolution of the district, to:

- (1) provide the district's management and operational records to the city;
- (2) transfer to the city the ownership of any water rights and certificates of adjudication;

(3) transfer the assets, debts, and contractual rights and obligations of the district to the city; and

(4) provide notice and make recordings of the transfers under this section as required by the Water Code and other law.

SECTION 5. CITY CONSENT. (a) Prohibits the district, without the consent of a majority of the members of a city commission that provides notice under Section 3 of this Act, from selling, transferring, or encumbering any district asset; from issuing debt or acquiring additional obligations; or from defaulting on or failing to honor financial, legal, or other obligations of the district.

(b) Requires the district, unless a majority of the members of a city commission that provides notice under Section 3 of this Act agree otherwise, to maintain assets of the district in an appropriate condition reflective of good stewardship and proper repair and to preserve district records, including information maintained by the district in electronic format.

(c) Provides that any action undertaken by the district that does not comply with Subsection (a) of this section is void.

(d) Provides that this section expires on the date that a city has provided notice under Section 3 of this Act.

SECTION 6. EXPIRATION. Provides that this Act expires January 1, 2026.

SECTION 7. EFFECTIVE DATE. Effective date: upon passage or September 1, 2021.