

BILL ANALYSIS

Senate Research Center
88R22803 MP-F

H.B. 5326
By: Gates (Kolkhorst)
Local Government
5/5/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Continuing development and growth in Fort Bend County has created the need for permanent improvements such as water supply and distribution facilities, wastewater collection and treatment facilities, drainage and flood control projects, and road facilities. Pursuant to Article XVI, Section 59, and Article III, Section 52, of the Texas Constitution, and subject to the continuing supervisory jurisdiction of the Texas Commission on Environmental Quality, the bill seeks to create a municipal utility district to be known as Orchard Municipal Utility District No. 2 over an approximate 2,717.3 acre tract of land located within the extraterritorial jurisdiction of the City of Orchard in Fort Bend County, Texas.

Article XVI, Section 59, and Article III, Section 52, of the Texas Constitution provide for the creation of local governmental districts which are authorized to incur indebtedness to provide such permanent improvements and to levy taxes for the maintenance and operation of such improvements and for the repayment of such indebtedness. This legislation grants the district the power to undertake water, sanitary sewer, drainage, recreational, and road projects and provides for division of the district. The legislation authorizes the district, subject to certain requirements, to issue bonds and other obligations and impose property taxes. Once created, Orchard Municipal Utility District No. 2 will be authorized to divide into additional districts.

H.B. 5326 amends current law relating to the creation of the Orchard Municipal Utility District No. 2, grants a limited power of eminent domain, provides authority to issue bonds, and provides authority to impose assessments, fees, and taxes.

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 8079A, as follows:

CHAPTER 8079A. ORCHARD MUNICIPAL UTILITY DISTRICT NO. 2

Sets forth language for the creation of the Orchard Municipal Utility District No. 2 (district). Sets forth standards, procedures, requirements, and criteria for:

Creation and approval of the district (Sections 8079A.0101-8079A.0102 and 8079A.0104-8079A.0106);

Size, composition, election, and terms of the board of directors of the district (Sections 8079A.0103 and 8079A.0201-8079A.0202);

Powers and duties of the district (Sections 8079A.0301-8079A.0306); and

General financial provisions and authority to impose a tax and to issue bonds and obligations for the district (Sections 8079A.0401-8079A.0503).

SECTION 2. Sets forth the initial boundaries of 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. (a) Amends Subchapter C, Chapter 8079A, Special District Local Laws Code, as added by Section 1 of this Act, if this Act does not receive a two-thirds vote of all the members elected to each house, by adding Section 8079A.0307, as follows:

Sec. 8079A.0307. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

(b) Provides that this section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c) (relating to authorizing the legislature, on or after January 10, 2020, to enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house), Article I (Bill of Rights), Texas Constitution.

SECTION 5. Effective date: upon passage or September 1, 2023.