

## **BILL ANALYSIS**

C.S.H.B. 648  
By: Krause  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that the Viridian Municipal Management District, which is located wholly within the corporate limits of the City of Arlington and Tarrant County, was created by the legislature several years ago. The parties report that upon completion, it is anticipated that development in the district will contain over 3,500 single-family homes and townhomes. The parties further note that the district is currently governed by an elected board of directors but contend that some directors should be appointed. C.S.H.B. 648 seeks to address this issue.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 648 amends the Special District Local Laws Code to change the manner of the selection of directors of the Viridian Municipal Management District from having all five directors elected to having two directors elected and three directors appointed by the mayor and members of the governing body of the City of Arlington from persons recommended by the district's board. The bill specifies that a person is appointed if a majority of members and the mayor vote to appoint that person. The bill removes the specification that a director's term expires May 31 of the applicable year.

C.S.H.B. 648 requires the mayor and members of the governing body of the city to fill a vacancy in the office of an appointed director for the remainder of the director's unexpired term in the same manner as the original appointment and includes the mayor in the appointment process to fill board vacancies when there are fewer than three directors.

C.S.H.B. 648 replaces the requirements that the board appoint itself as the board of one of the new districts after an election in favor of the division of the district into new districts and appoint five directors for each of the other new districts with the requirement that the mayor and members of the governing body of the city appoint the board of the original district as the board of one of the new districts and appoint five directors for each of the other new districts in the manner prescribed for the appointment of directors of the original district. The bill makes a director of the board of the original district that is appointed as a director of the board of one of the new districts eligible to serve only if the director owns land inside the area described by the boundaries of the original district. The bill removes the specification that directors appointed for the other new districts serve until the first election for directors and instead specifies that the

directors serve until May 31 of the first even-numbered year after the year in which the directors are appointed. The bill removes a provision providing for the drawing of lots to determine the terms of the first elected directors.

C.S.H.B. 648 requires the district's board, not later than January 1 of each year, to conduct a review to determine what percentage of the developable acreage in the district has been developed and requires the board by rule to establish criteria for determining whether certain acreage is developable. The bill, if the board determines on conclusion of the review that at least 90 percent of the developable acreage in the district has been developed, exempts the district from the requirements regarding the appointment and election of directors and requires all five directors to be selected by elections held on the uniform election date in May in even-numbered years. The bill entitles a director appointed to the board before the board makes that determination to serve the remainder of the director's unexpired term and provides for the filling of a vacancy on the board that occurs on or after the date the board makes the determination. The bill makes these provisions relating to the requirement to elect all directors applicable to a new district created by the division of the district in the same manner as the provisions apply to the original district.

C.S.H.B. 648 provides for the transition from elected directors to both appointed and elected directors.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 648 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Section 3861.051, Special District Local Laws Code, is amended to read as follows:

Sec. 3861.051. **GOVERNING BODY; TERMS.** The district is governed by a board of five directors who serve staggered terms of four years[, with two or three directors' terms expiring May 31 of each even-numbered year].

SECTION 2. Section 3861.052, Special District Local Laws Code, is amended to read as follows:

Sec. 3861.052. **APPOINTMENT OF DIRECTORS; VACANCY** [ELECTION

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 3861.051, Special District Local Laws Code, is amended to read as follows:

Sec. 3861.051. **GOVERNING BODY; TERMS.** (a) Except as provided by Section 3861.0521, the [The] district is governed by a board of five directors as follows:

(1) three directors appointed by the mayor and the governing body of the city as provided by Section 3861.052(a); and

(2) two directors elected from the district at large as provided by Section 3861.052(b).

(b) Directors [who] serve staggered terms of four years[, with two or three directors' terms expiring May 31 of each even-numbered year].

SECTION 2. Section 3861.052, Special District Local Laws Code, is amended to read as follows:

Sec. 3861.052. **APPOINTMENT OR ELECTION OF DIRECTORS [DATE].** (a)

~~DATE]. (a) The mayor and members of the governing body of the city shall appoint directors from persons recommended by the board. A person is appointed if a majority of members and the mayor vote to appoint that person.~~  
~~(b) A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. [The board shall hold elections for directors on the uniform election date in May in even-numbered years.]~~

No equivalent provision.

No equivalent provision. *(But see SECTION 4 below.)*

The mayor and members of the governing body of the city shall appoint three of the directors from persons recommended by the board. A person is appointed if a majority of members and the mayor vote to appoint that person.  
(b) The board shall hold an election to elect one director [elections for directors] on the uniform election date in May in each even-numbered year [years].

SECTION 3. Subchapter B, Chapter 3861, Special District Local Laws Code, is amended by adding Section 3861.0521 to read as follows:  
Sec. 3861.0521. REQUIREMENT TO ELECT ALL DIRECTORS. (a) Not later than January 1 of each year, the board shall conduct a review to determine what percentage of the developable acreage in the district has been developed. The board by rule shall establish criteria for determining whether certain acreage is developable.  
(b) If the board determines on conclusion of a review conducted under Subsection (a) that at least 90 percent of the developable acreage in the district has been developed, Section 3861.052 does not apply to the district and all five directors shall be selected by elections held on the uniform election date in May in even-numbered years.  
(c) If the board makes the determination described by Subsection (b), a director appointed to the board before the board makes that determination is entitled to serve the remainder of the director's unexpired term.  
(d) A vacancy on the board that occurs on or after the date the board makes the determination described by Subsection (b) shall be filled in the manner prescribed by Section 3861.054(b).

SECTION 4. Section 3861.054, Special District Local Laws Code, is amended to read as follows:  
Sec. 3861.054. VACANCY. (a) If a vacancy occurs in the office of an appointed director, the mayor and members of the governing body of the city shall fill the vacancy for the remainder of the director's unexpired term in the same manner as the

SECTION 3. Section 3861.203, Special District Local Laws Code, is amended to read as follows:

Sec. 3861.203. APPOINTMENT ~~[ELECTION]~~ OF DIRECTORS OF NEW DISTRICTS. (a) Not later than the 90th day after the date of an election in favor of the division of the district, the mayor and members of the governing body of the city ~~[board]~~ shall:

(1) appoint ~~[itself as]~~ the board of the original district as the board of one of the new districts; and

(2) appoint five directors for each of the other new districts in the manner prescribed by Section 3861.052.

(b) Directors appointed under Subsection (a)(1) serve the remainder of the ~~[staggered]~~ terms to which they were appointed ~~[elected]~~ in the original district. Notwithstanding Section 3861.053, a director appointed under Subsection (a)(1) is eligible to serve only if the director owns land inside the area described by the boundaries of the original district.

(c) The mayor and members of the governing body of the city shall designate the initial terms of the directors appointed to each board under Subsection (a)(2) so that:

(1) two of the directors serve a two-year term; and

(2) three of the directors serve a four-year term ~~[Directors appointed under Subsection (a)(2) serve until the election for directors under Subsection (c)].~~

~~[(c) On the uniform election date in May of the first even-numbered year after the year in which the directors are appointed, the appointed board shall hold an election to~~

original appointment.

(b) If a vacancy occurs in the office of an elected director, the ~~[The]~~ remaining directors shall fill the ~~[a]~~ vacancy ~~[on the board]~~ by appointing a person who meets the qualifications prescribed by Section 3861.053.

~~[(b)]~~ If there are fewer than three directors, the mayor and members of the governing body of the city shall appoint the necessary number of directors who meet the qualifications prescribed by Section 3861.053 to fill all board vacancies, regardless of whether the vacating directors were appointed or elected.

SECTION 5. Section 3861.203, Special District Local Laws Code, is amended to read as follows:

Sec. 3861.203. APPOINTMENT ~~[ELECTION]~~ OF DIRECTORS OF NEW DISTRICTS. (a) Not later than the 90th day after the date of an election in favor of the division of the district, the mayor and members of the governing body of the city ~~[board]~~ shall:

(1) appoint ~~[itself as]~~ the board of the original district as the board of one of the new districts; and

(2) appoint five directors for each of the other new districts in the manner prescribed by Section 3861.052(a).

(b) Directors appointed under Subsection (a)(1) serve the remainder of the ~~[staggered]~~ terms to which they were appointed or elected in the original district. Notwithstanding Section 3861.053, a director appointed under Subsection (a)(1) is eligible to serve only if the director owns land inside the area described by the boundaries of the original district. Directors appointed under Subsection (a)(2) serve until May 31 of the first even-numbered year after the year in which the directors are appointed ~~[the election for directors under Subsection (c)].~~

(c) On the uniform election date in May of the first even-numbered year after the year in which the directors are appointed, the appointed board shall hold an election to

~~elect five directors in each district for which directors were appointed under Subsection (a)(2). The directors shall draw lots to determine which two shall serve until the next regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.]~~

SECTION 4. Section 3861.054, Special District Local Laws Code, is repealed.

SECTION 5. (a) A member of a board of directors who was elected under Section 3861.052 or 3861.203, Special District Local Laws Code, or appointed to fill a vacancy under Section 3861.054, Special District Local Laws Code, before the effective date of this Act shall continue to serve until the expiration of the member's term.

(b) The mayor and members of the governing body of the city may make the appointments permitted by Section 3861.052, Special District Local Laws Code, as amended by this Act, to fill a vacancy occurring on the board of directors on or after the effective date of this Act.

SECTION 6. This Act takes effect September 1, 2015.

elect two [five] directors and the mayor and members of the governing body of the city shall appoint three directors in the manner prescribed by Section 3861.052(a) in each district for which directors were appointed under Subsection (a)(2).

(d) Section 3861.0521 applies to a new district in the same manner as that section applies to the original district. ~~[The directors shall draw lots to determine which two shall serve until the next regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.]~~

No equivalent provision. (But see SECTION 4 above.)

SECTION 6. (a) A member of a board of directors who was elected under Section 3861.052 or 3861.203, Special District Local Laws Code, or appointed to fill a vacancy under Section 3861.054, Special District Local Laws Code, before the effective date of this Act shall continue to serve until the expiration of the member's term. As members' terms expire, the mayor and members of the governing body of the city shall fill an appropriate number of the vacancies by appointment so that the board consists of three appointed directors and two elected directors as required by Section 3861.052, Special District Local Laws Code, as amended by this Act.

(b) The mayor and members of the governing body of the city may make the appointments permitted by Section 3861.052(a), Special District Local Laws Code, as amended by this Act, to fill a vacancy occurring on the board of directors on or after the effective date of this Act.

SECTION 7. Same as introduced version.