

SUBJECT: Modifying procedures for MUDs attempting to add land in a municipality

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 6 ayes — Mowery, Orr, Zerwas, Callegari, R. Cook, Geren

0 nays

3 absent — Y. Davis, Pickett, Ritter

WITNESSES: For — Art Rodriguez

Against — None

BACKGROUND: Local Government Code, ch. 42, subch. C governs the creation of governmental entities in a municipality's extraterritorial jurisdiction. Sec. 42.042 provides that a political subdivision that supplies fresh water for domestic or commercial use or furnishes sanitary sewer services, roadways, or drainage, may not be created in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with relevant statutory provisions.

Water Code, ch. 54 governs the powers and duties of municipal utility districts (MUDs). Sec. 54.016 renders land within the corporate limits of a city or within the extraterritorial jurisdiction of a city ineligible for inclusion in a MUD unless the city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district.

Local Government Code, sec 42.042 and Water Code, sec. 54.016 both provide exceptions for a governing body that is not able to make a contract with a majority of the qualified voters and property owners in the proposed subdivision to provide the services within 120 days after receiving a petition from a MUD. In this case, an applicant may petition the Texas Commission on Environmental Quality for the creation or inclusion of land in the MUD upon the finding that the municipality either does not have the ability to provide the services or failed to make a legally binding commitment with sufficient funds available to provide adequate services.

Current law does not directly address the expansion of an existing MUD into a municipality's extraterritorial jurisdiction. Nor does it specifically prohibit MUDs from being created outside a municipality's jurisdiction and adding land within a jurisdiction subsequent to creation.

DIGEST:

HB 2091 would add Local Government Code, sec. 42.0425 and Water Code, sec. 54.0165 prohibiting a political subdivision from adding land that was located in the extraterritorial jurisdiction of a municipality unless the governing body of the municipality gave its written consent, by resolution or ordinance, to the addition of the land to the district.

The bill would apply the procedures associated with a municipality's refusal to consent as provided in Local Government Code sec. 42.042 and Water Code sec. 54.016 to MUD applicants seeking to add land. A person who owned land in the area in question could not unreasonably refuse to enter into a proposed contract for services with a municipality if so offered.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.