

BILL ANALYSIS

Senate Research Center

H.B. 2448
By: Hightower (Nixon)
Natural Resources
5-12-97
Engrossed

DIGEST

In April of 1995, a nonprofit corporation was formed in order to secure bonds to purchase a water system currently in bankruptcy. Subsequently, it was realized that if this entity became a special utility district it could qualify for tax-exempt status. This status would recognize a savings in excess of \$2 million over the period of the loan for the customers of this water system. This bill will create and provide regulations regarding the administration, powers, duties, operations, and financing of the Lake Livingston Special Utility District.

PURPOSE

As proposed, H.B. 2448 creates and provides regulations regarding the administration, powers, duties, operations, and financing of the Lake Livingston Special Utility District.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Lake Livingston Special Utility District in SECTION 3.04 of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. CREATION; LEGISLATIVE DECLARATION. Provides that a conservation and reclamation district to be known as the Lake Livingston Special Utility District (district) is created in Hardin, Liberty, Polk, San Jacinto, Trinity, Tyler, and Walker counties, subject to approval at a confirmation election under SECTION 2.04 of this Act. Provides that the district will be a government agency and a body politic and corporate. Provides that the district is created under and is essential to the accomplishment of the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 1.02. DEFINITIONS. Defines "board," "commission," "director," "district," "corporation," "executive director," "extraterritorial jurisdiction," and "public agency."

SECTION 1.03. PURPOSES OF DISTRICT. Provides that the district is created for certain purposes.

SECTION 1.04. BOUNDARIES OF DISTRICT. Sets forth the boundaries of the district.

SECTION 1.05. OPEN MEETINGS. Requires all meetings of the Lake Livingston Water Supply and Sewer Service Corporation (corporation) and the district to be held and conducted in accordance with Chapter 551, Government Code.

ARTICLE 2. ADMINISTRATIVE PROVISIONS

SECTION 2.01. RESOLUTION PROPOSING CREATION OF DISTRICT. Sets forth regulations regarding the adoption of a resolution proposing creation of the district.

SECTION 2.02. CONSENT OF MUNICIPALITY. Authorizes the district to operate within the corporate limits of a municipality or within the extraterritorial jurisdiction of a municipality.

Authorizes the municipality to require that the district construct all facilities to serve the land in accordance with plans and specifications that are approved by the municipality. Authorizes the municipality to require that the municipality be entitled to inspect facilities being constructed by the district within the corporate limits or extraterritorial jurisdiction of the municipality.

SECTION 2.03. BOARD OF DIRECTORS. Sets forth regulations regarding the board of directors of the district (board).

SECTION 2.04. CONFIRMATION ELECTION; ELECTION OF INITIAL DIRECTORS. Requires the board of directors of the corporation, if the members of the corporation, by a simple majority, approve the resolution to convert to the district, to call and conduct a confirmation and directors election as provided by Chapter 49D, Water Code. Requires the board of directors of the corporation to serve as the temporary directors for the confirmation and director election.

SECTION 2.05. ELECTION OF DIRECTORS. Sets forth regulations regarding the election of directors.

ARTICLE 3. POWERS AND DUTIES

SECTION 3.01. GENERAL POWERS. Sets forth the general powers of the district.

SECTION 3.02. ADDITIONAL POWERS. Sets forth powers of the district in relation to works, improvements, facilities, plants, equipment and appliances.

SECTION 3.03. MUNICIPAL SOLID WASTE. Prohibits the district from collecting municipal solid waste as defined by Section 361.003, Health and Safety Code, or purchase, construct, acquire, own, operate, maintain, repair, improve, and extend a municipal solid waste collection and disposal system.

SECTION 3.04. ADOPTING RULES. Authorizes the district to adopt and enforce reasonable rules concerning certain matters. Provides that, in adopting rules under this Act, the district is subject to Chapter 2001B, Government Code, as if the district were a state agency.

SECTION 3.05. EFFECT OF RULES. Requires rules adopted by the district under SECTION 3.04 of this Act, after the required publication, to be recognized by the courts as if the rules were penal ordinances of a municipality.

SECTION 3.06. PUBLICATION OF RULES. Sets forth regulations regarding publication of rules adopted by the district.

SECTION 3.07. EFFECTIVE DATE OF RULES. Provides that the penalty for violation of a rule is not effective and enforceable until the fifth day after the date of the last publication of notice. Provides that, on the fifth day after the date of the last publication, the published rule takes effect and ignorance of the rule is not a defense to a prosecution for the enforcement of the penalty.

SECTION 3.08. PROHIBITION ON ASSESSMENT OR COLLECTION OF TAXES. Prohibits the district from assessing or collecting a tax of any kind.

ARTICLE 4. BONDS AND NOTES

SECTION 4.01. ISSUANCE OF BONDS AND NOTES. Sets forth regulations regarding the issuance of bonds and notes by the district.

SECTION 4.02. FORM OF BONDS AND NOTES. Sets forth regulations regarding the form of bonds and notes issued by the district.

SECTION 4.03. REPAYMENT OF BONDS OR NOTES. Sets forth regulations regarding repayment of bonds or notes.

SECTION 4.04. ADDITIONAL SECURITY FOR BONDS OR NOTES. Sets forth regulations regarding additional security for bonds or notes.

SECTION 4.05. METHOD FOR ISSUANCE OF BONDS AND NOTES. Authorizes bonds or notes to be issued by resolution or order of the board.

SECTION 4.06. PROVISIONS OF BONDS OR NOTES. Sets forth provisions that may be contained in an order or resolution authorizing the issuance of bonds or notes.

SECTION 4.07. USE OF BOND OR NOTE PROCEEDS. Sets forth regulations regarding the use of bond or note proceeds by the district.

SECTION 4.08. SALE OR EXCHANGE OF BONDS. Requires the board to sell the bonds on the best terms and for the best possible price, but the bonds may not be sold for less than 95 percent of their face value.

SECTION 4.09. REFUNDING BONDS. Sets forth regulations regarding the refunding of bonds.

SECTION 4.10. OBLIGATIONS; LEGAL INVESTMENT; SECURITY FOR FUNDS. Provides that bonds, notes, and other obligations issued by a district are legal and authorized investments for certain entities and persons. Provides that the district's bonds, notes, and other obligations are eligible to secure deposits of certain entities. Provides that the bonds, notes, and other obligations are lawful and sufficient security to the extent of their market value if accompanied by all unmatured interest coupons attached to them.

SECTION 4.11. MANDAMUS BY BONDHOLDERS. Provides that the owners of any of the bonds are entitled to a writ of mandamus issued by a court of competent jurisdiction, in addition to other rights and remedies, compelling the district and its officials to observe and perform the covenants, obligations, or conditions prescribed in the order or resolution authorizing the issuance of the district's bonds if the district makes certain defaults or failures.

SECTION 4.12. CANCELLATION OF UNSOLD BONDS. Sets forth regulations regarding the cancellation of bonds by the board.

ARTICLE 5. CONSOLIDATION OF DISTRICTS

SECTION 5.01. CONSOLIDATION. Authorizes the district to consolidate with any district governed by Chapter 65, Water Code, in accordance with Section 65.723, Water Code, et seq.

ARTICLE 6. EMERGENCY

SECTION 6.01. Emergency clause.
Effective date: upon passage.