

BILL ANALYSIS

Senate Research Center

S.B. 1709
By: Nixon
Natural Resources
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As Filed

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 two million dollars 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, S.B. 1709 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 3.03 of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. CREATION OF THE DISTRICT. Authorizes Lake Livingston Special Utility District (district) to be created pursuant to the provisions of this Act and under and subject to the authority, conditions, and restrictions of, and is considered a conservation and reclamation district under, Article XVI, Section 59, of the Texas Constitution. Provides that the district will be a government agency and a body politic and corporate.

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

SECTION 1.03. PURPOSES OF THE DISTRICT. Authorizes the district to be created for certain purposes.

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

SECTION 1.05. OPEN MEETINGS. Requires all meeting 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 CITY. Authorizes a district to operate within the corporate limits of a city or within the extraterritorial jurisdiction of a city, provided that a city may require that the district construct all facilities to serve the land in accordance with plans and specifications that are

approved by the city. Authorizes the city to require that the city be entitled to inspect facilities being constructed by a district within the corporate limits or extraterritorial jurisdiction of the city.

SECTION 2.03. Requires the board of directors of the corporation, if the members of the corporation approve the resolution on the question of converting to the district by a simple majority, to call for and conduct a confirmation and director election as provided in Chapter 49D of the Water Code. Requires the board of directors of the corporation to serve as the temporary directors for the confirmation and director election.

SECTION 2.04. Requires the district, for election of directors, to be divided into three numbered single-member precincts, one precinct each for Polk County, Trinity County, and San Jacinto County. Requires two directors to be elected from Polk County, two directors from the San Jacinto precinct, one from the Trinity County precinct, and two directors elected at large.

SECTION 2.05. Provides that the district's powers, rights, duties, and functions are exercised by a board of directors (board).

SECTION 2.06. Requires the board to consist of seven members all of whom must reside in the district. Requires a person, in order to serve as a director, to be at least 18 years old, a resident citizen of this state, and a qualified voter of the district.

ARTICLE 3. POWERS AND DUTIES

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

SECTION 3.02. SOLID WASTE. Prohibits a district from collecting municipal solid waste as defined in 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 3.03. ADOPTING RULES. Authorizes the district to adopt and enforce reasonable rules concerning certain matters.

SECTION 3.04. EFFECT OF RULES. Requires rules adopted by the district under SECTION 3.03 of this Act, after the required publication, to be recognized by the courts as if the rules were penal ordinances of a city.

SECTION 3.05. PUBLICATION OF RULES. Sets forth regulations regarding publication of rules adopted by the district.

SECTION 3.06. EFFECTIVE DATE OF RULES. Provides that the penalty for violation of a rule is not effective and enforceable until five days after the last publication of notice. Provides that, five days after 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 3.07. PROHIBITION ON ASSESSMENT OR COLLECTION OF TAXES. Provides that Section 49.017, Water Code, does not apply to the district.

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. MANNER OF REPAYMENT OF BONDS OR NOTES. Sets forth regulations regarding the manner of 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.

SECTION 4.13. CANCELLATION OF UNSOLD BONDS. Sets forth regulations regarding the cancellation of bonds by the board.

ARTICLE 5. CONSOLIDATION OF DISTRICTS

Authorizes the district to consolidate with any district governed by Chapter 65 of the Water Code in accordance with the procedures provided in Section 65.723, et seq., Water Code, as may be amended.

ARTICLE 6. MISCELLANEOUS

SECTION 6.01. Severability clause.

SECTION 6.02. Emergency clause.
Effective date: upon passage.