

BILL ANALYSIS

Senate Research Center
76R11235 MI-D

H.B. 3804
By: Crownover (Nelson)
Natural Resources
5/13/1999
Engrossed

DIGEST

The Lake Cities Municipal Utilities Authority (LCMUA) provides the Lake Dallas area with water and wastewater services. It was originally created in the 58th legislative session in 1963. Due to changes in the law, some of LCMUA's statutes are now in conflict with current law. C.S.H.B. 3804 is a comprehensive consolidation, clarification, and update of LCMUA's prior statutes and amendments. This bill updates LCMUA's territorial boundaries, annexation, disannexation and eminent domain provisions as well as sections regarding the issuance and payment of bonds and matters which relate to the Texas Natural Resource Conservation Commission.

PURPOSE

As proposed, H.B. 3804 provides for comprehensive consolidation, clarification, and update of prior statutes and amendments of the Lake Cities Municipal utility Authority .

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. VALIDATION AND CREATION; PRINCIPAL OFFICES. Validates and reconfirms the creation of the conservation and reclamation district known as Lake Cities Municipal Utility Authority (LCMUA), which is a governmental agency and a body politic and corporate, under the authority of Section 59, Article XVI, Texas Constitution. Requires the principal offices of LCMUA to be located in Denton County, Texas.

SECTION 2. DEFINITIONS. Defines "board" and "LCMUA."

SECTION 3. BOUNDARIES. Provide that LCMUA consists of the territory contained in the boundaries of the City of Lake Dallas and that part of the City of Shady Shores specifically described in the official records of LCMUA. Requires the specific territorial boundary of LCMUA and any changes to it to be definitively described in the official records of LCMUA.

SECTION 4. FINDING OF BENEFIT. Provides finding of benefit.

SECTION 5. GENERAL POWERS. Sets forth the general powers of LCMUA.

SECTION 6. BOARD OF DIRECTORS. Provides that LCMUA is governed by a five-person Board of Directors (board). Sets forth the method of electing the board, the length of terms of the members, qualifications of members, and establishes election procedures. Provides that no compensation shall be paid to any board member.

SECTION 7. OFFICERS. Requires the board to elect from its number a president and vice president of LCMUA and such other officers as in the judgment of the board are necessary or appropriate. Sets forth the duties of the president, the vice president, the secretary, the treasurer.

SECTION 8. EMPLOYMENT AUTHORITY; GENERAL MANAGER. Authorizes the board to employ professional persons including engineers, attorneys, accountants, consultants, and other employees. Requires the board to hire a general manager to conduct the day-to-day business of LCMUA. Authorizes the board to authorize the general manager to perform certain acts. Sets forth prohibited acts

of the general manager.

SECTION 9. SEAL. Authorizes the board to adopt a seal for LCMUA.

SECTION 10. ANNEXATION BY PETITION OF QUALIFIED VOTERS. Authorizes additional territory to be annexed to LCMUA under certain circumstances. Sets forth the required contents of the petition. Requires the board to adopt a resolution stating the conditions of annexation and setting a time and place for a hearing on the annexation if the board makes certain findings. Sets forth the contents of the resolution. Sets forth publication requirements. Sets forth requirements for an election to annex the property. Prohibits the annexation of railroad right-of-way unless the right-of way is within the limits of an incorporated municipality or other governmental body.

SECTION 11. DISANNEXATION. Authorizes an election for disannexation. Provides that a disannexation election shall be held in the same manner as an annexation election. Prohibits a disannexation from reducing the tax base necessary to support outstanding bonds by levy and assessment of ad valorem taxes.

SECTION 12. ANNEXATION AND DISANNEXATION BY LANDOWNER PETITION. Sets forth the procedures for annexing and disannexing through landowner petitions.

SECTION 13. POWERS. Sets forth the powers and authority of LCMUA to develop surface or underground water storage and supply facilities and to construct or cause to be constructed a diversion works, pumps, pumping stations, pipelines, intermediate and terminal storage reservoirs, water treatment plants, distribution systems, and all other related facilities which will facilitate or implement the duty of LCMUA to deliver and distribute water within its territory and any other territory for which it holds a certificate of convenience and necessity and to purchase, improve, modify, or extend any existing water system or systems within the certificated territory or outside the certificated territory if reasonably necessary or appropriate for the support of services within the certificated territory. Authorizes LCMUA to construct, maintain service, and operate a complete wastewater system. Authorizes LCMUA to use public streets, alleys, ways, and places for the laying of its water and wastewater lines and facilities. Authorizes LCMUA to make contracts for the purchase of water or water supplies, purchase treated water, purchase wastewater treatment facilities and to make contracts for the purchase or sale of treated or untreated water or waste water. Provides that LCMUA is also empowered and has authority to obtain any and all permits, licenses, consents, and permissions as may be appropriate from the Texas Natural Resource Conservation Commission or any other appropriate regulatory body in order to conduct any of its operations. Provides that LCMUA is further authorized to purchase and sell all works, machinery, plants, and other facilities and equipment and land, rights-of-way, and easements necessary or appropriate for the purpose of exercising its rights and performing its duties under this Act.

SECTION 14. EMINENT DOMAIN. Establishes that LCMUA has full power of eminent domain.

SECTION 15. CONSTRUCTION CONTRACT. Requires any construction contract to be procured in accordance with Subchapter I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code.

SECTION 16. AUTHORITY TO ISSUE BONDS. Sets forth the manner and procedures in which LCMUA is authorized to issue general obligation and revenue bonds.

SECTION 17. REFUNDING BONDS. Sets forth the manner in which LCMUA is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act or other authority and any interest thereon.

SECTION 18. ADDITIONAL SECURITY. Authorizes any bonds (including refunding bonds) authorized by law, not payable wholly from ad valorem taxes, to be additionally secured by a trust indenture under which the trustee may be a bank, having trust powers, situated either within or outside the State of Texas. Sets forth additional powers of the board with respect to such bonds and the rights of a purchaser under a sale under a deed of trust lien.

SECTION 19. ELECTION REQUIRED FOR TAX-SUPPORTED BONDS. Prohibits bonds payable wholly or partially from ad valorem taxes (except refunding bonds) from being issued unless authorized by an election at which only the qualified voters residing in the LCMUA's voting territory are allowed to

vote and unless a majority of the votes cast is in favor of the issuance of the bonds. Authorizes bonds not payable wholly or partially from ad valorem taxes to be issued without an election. Sets forth the procedures for an election.

SECTION 20. DEPOSITORY. Requires the board to designate one or more banks to serve as depository for the funds of LCMUA. Requires all funds of LCMUA to be deposited in such depository bank or banks except that funds pledged to pay bonds may be deposited with the trustee bank named in the trust agreement or other escrow, and except that funds shall be remitted to the bank or banks of payment for the payment of principal of and interest on bonds. Provides that if funds in the depository bank and the trustee bank are not insured by the Federal Deposit Insurance Corporation they are required to be secured in the manner provided by law for the security of municipal funds. Provides that banks selected by the board need not go through any bid process or process regarding invitation of the banks to become designated depositories.

SECTION 21. ABOLITION OF LCMUA. Authorizes LCMUA to be abolished by a majority vote of the qualified voters residing within the voting territory of LCMUA at an election held for the purpose. Establishes the procedure for such elections.

SECTION 22. PUBLIC PURPOSE. States that the accomplishment of the purposes stated in this Act are for the benefit of the people of this state and for the improvement of their properties and industries, and LCMUA, in carrying out the purposes of this Act, will be performing an essential public function under the constitution. Prohibits LCMUA from being required to pay any tax or assessment on any project, operations, equipment, personal or real property or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

SECTION 23. TAX ASSESSOR-COLLECTOR. Authorizes the Denton County tax assessor and collector to be used as a tax assessor and collector and Denton Central Appraisal District to be designated as a board of equalization and cause taxes to be assessed, valuations to be equalized, and tax rolls to be prepared. Provides for procedures in the event that Denton County and Denton Central Appraisal District do not cooperate.

SECTION 24. STATUTORY INTERPRETATION. Prohibits this Act from being interpreted as amending or repealing the statutes regarding the priorities of the use of water or any legislation governing water control.

SECTION 25. Provides that all notice and formal bill introductions have been followed in the passage of this Act.

SECTION 26. TRANSITION: ELECTION OF DIRECTORS. Sets forth the method of determining which directors serve four-year terms initially and provides that the director who is serving on the effective date of this Act will remain director until a successor is elected at the directors election in 2000.

SECTION 27. Emergency clause.

Effective date: upon passage.