

BILL ANALYSIS

Senate Research Center
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S.B. 1096
By: Nixon
Natural Resources
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As Filed

DIGEST

Currently, East Texas is home to the Lower Neches Valley Authority, the Angelina and Neches River Authority, and the Upper Neches River Authority. Consolidation of these authorities into two entities can help this region pool its resources for major water projects. S.B. 1096 consolidates the Angelina and Neches River Authority with, and the administration, powers, duties, operation, and financing of, the Lower Neches Valley Authority and the Upper Neches River Authority.

PURPOSE

As proposed, S.B. 1096 consolidates the Angelina and Neches River Authority with, and the administration, powers, duties, operation, and financing of, the Low Neches Valley Authority and the Upper Neches River Authority.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Lower Neches Valley Authority and the Upper Neches River Valley Authority in SECTION 4.03 of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ANGELINA AND NECHES RIVER AUTHORITY

SECTION 1.01. Provides that on September 1, 1999, the Angelina and Neches River Authority is abolished.

SECTION 2.02. Sets forth the rights, powers, duties, and obligations which transfer from the Angelina River Authority, the Lower Neches Valley River Authority, and the Upper Neches River Authority on September 1, 1999.

SECTION 1.03. Provides that the repeal of Chapter 97, General Law, Acts of the 44th Legislature, Regular Session, 1935, (Article 8280-108, V.T.C.S.), by SECTION 4.01 of this Act does not affect a bond, note, or other obligation issued by the Angelina and Neches River Authority that is outstanding on the effective date of this Act. Provides that a bond note or other obligation issued by the Angelina and Neches River Authority that is outstanding on the effective date of this Act becomes an obligation of the entity to which the facility or improvement, the revenue from which secures the obligation, is transferred by this Act. Provides that the obligation is governed by the terms of the contract and the provisions of the law under which the obligation was issued, and the former law is continued in effect for that purpose.

ARTICLE 2. LOWER NECHES VALLEY AUTHORITY

SECTION 2.01 Amends Section 2, Chapter 63, Acts of the 43rd Legislature, 1st Called Session, 1933, (Article 8280-103, V.T.C.S.), to require the boundaries of the Lower Neches Valley Authority to include all the territories lying within the watershed of the Neches River and its tributaries and which includes Jasper and Polk counties.

SECTION 2.02. Amends Section 3, Chapter 63, Acts of the 43rd Legislature, 1st Called Session, 1933, (Article 8280-103, V.T.C.S.), to require the management and control of all the affairs of such district to be vested in a Board of Directors (board), consisting of nine members, all of whom are to be residents of the district and qualified, rather than freehold property taxpayers and legal voters of the State of Texas. Requires a vacancy in the board to be filled for the unexpired term by the governor, rather than in the same

manner as provided for appointments for a full term. Deletes text requiring five directors to be residents of Jefferson County, two of Hardin County, and two of Tyler County.

SECTION 2.03. Amends Section 13, Chapter 63, Acts of the 43rd Legislature, 1st Called Session, 1993, (Article 8280-103, V.T.C.S.) by adding Subsection (r), to authorize the district to construct the Lake Rockland reservoir project without entering into an interlocal agreement with another conservation and reclamation district with jurisdiction over the water of the Neches River and its tributaries.

ARTICLE 3. UPPER NECHES RIVER AUTHORITY

SECTION 3.01. Amends Section 1, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to create the Upper Neches River Authority (district). Provides that the district has under this Act the same powers, and only those powers, that are granted to the Lower Neches Valley Authority under Chapter 63, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 8280-103, V.T.C.S.) or other law, except that the district does not have the power granted to the lower Neches Valley Authority under Section 13(r) of that Act. Deletes text regarding municipal water.

SECTION 3.02. Amends Section 2, Chapter 412, Act of the 53rd Legislature, Regular Session, 1953 Article 8280-157, V.T.C.S., to provide that the district also includes the territory lying within the watershed of the Neches River and its tributaries and that includes certain counties.

SECTION 3.03. Amends Section 3, Chapter 412, Act of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to provide that the Board of Directors consists of nine members. Requires the directors to be appointed by the governor with the advice and consent of the senate. Deletes text regarding constituent cities and terms expiring on January 1st; and text requiring the words “appointed” to be considered synonymous with the words “elected.”

SECTION 3.04. Amends Section 4, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 Article 8280-157, V.T.C.S., to require a person to be a qualified voter and a resident of the district, rather than a property owning taxpayer in the city from which he is elected.

SECTION 3.05. Amends Sections 5(a) and (c), Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to require the board to perform official actions by resolution and five directors, rather two thirds of their number to constitute a quorum for the transaction of any and all business of the district. Requires a majority vote of those present to be sufficient in all resolutions, except that the letting of a construction contract and the authorization of issuance of warrants paying for performance under a construction contract requires the concurrence of seven directors. Requires a treasurer to be elected by the board from among its members. Deletes text regarding site of dam; Deletes text regarding discretion as to whether such officer shall be chosen.

SECTION 3.06. Amends Section 7, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to delete text requiring the general manager to be the official treasurer of the district and have charge of its funds; and text requiring the general manager to give bond in certain amounts.

SECTION 3.07. Amends Section 10, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to require a regular office to be established and maintained for the conduct of the district’s business, to be located within the district, rather than to be determined by the board.

SECTION 3.08. Amends Section 11, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to require a copy of the audit to be open to public inspection at all reasonable times, to be filed with the district’s depository, the auditor’s office, and the Texas Natural Resource Conservation Commission (TNRCC).

SECTION 3.09. Amends Section 12, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to require the board to designate one or more banks within the state, rather than district, to serve as depository for the funds of the district. Requires the funds to be secured in the manner provided by law for the security of funds by Chapter 2257, Government Code. Deletes existing Subsections (b)-(d), regarding county and depository banks.

SECTION 3.10 Amends Section 13, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953

(Article 8280-157 V.T.C.S.) as follows:

Sec. 13 ADDED POWERS. Requires the district to have and be recognized to exercise, in addition to all other powers granted by this Act, for the conservation and beneficial utilization of said waters, the power of control and employment of such waters of the Sabine and Neches rivers and their tributaries, including the storm and flood waters thereof, in a manner and for certain purposes. Sets forth requirements and powers of the district. Deletes text setting forth certain powers. Makes conforming changes.

SECTION 3.11. Amends Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) by adding Section 13A, as follows:

Sec. 13A. ECONOMIC DEVELOPMENT PROGRAMS. Authorizes the district to sponsor and participate in an economic development program within the areas served by the district intended to strengthen the economic development of the state. Prohibits the program from being outside the areas served by the district unless the district has entered into an interlocal agreement with an entity under Subsection (c) of this section. Requires each program to be established by formal action of the board of the district. Require the board to take certain action. Authorizes a program under this section to involve grants or loans of money, services, or equipment to a person engaged in economic development activity including certain organizations. Authorizes the district to provide assistance to a for-profit entity if the assistance is necessary or appropriate to carry out an economic development program consistent with the purpose of this section. Authorizes the district to employ staff and expend its resources to further an economic development program under this section except that the district may not use money received from an ad valorem tax or a general appropriation to further a program. Authorizes the district to apply for and receive money, grants, or other assistance from any source to carry out an economic development program under this section. Authorizes the district and any other public or private persons to enter into an agreement with respect to an economic development program. Requires the district to adopt certain guidelines, if the district provides scholarships, grants, loans, or financial assistance to a public fire-fighting organization. Provides that a determination by the board that a program is intended and expected to carry out the program's stated purpose is conclusive with respect to whether the purposes of this section are satisfied. Provides that in this section, an economic development program includes a community assistance program, privatization programs or any other program designed to take certain action.

SECTION 3.12. Amends Section 15, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to prohibit the district from issuing or selling bonds supported in whole or in part by ad valorem taxes for any purpose. Provides that the district has the same bonding authority as that granted the Lower Neches Valley Authority under Sections 16 through 27-a, Chapter 63, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 8280-103, V.T.C.S.). Deletes text regarding bonds.

SECTION 3.13. Amends Section 17, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) as follows:

Sec. 17. New heading: CONTRACTS WITH UNITED STATES OR ITS AGENCIES. Authorizes any contract with the U.S. government which may entered into to reserve to the district all water rights which it may obtain under permits granted by TNRCC, rather than the State Board of Water Engineers. Prohibits the district from entering into a contract under this section that would obligate the district to make payments wholly or partially from ad valorem taxes. Deletes text requiring authorization of an election.

SECTION 3.14. Amends Section 18, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to authorize the TNRCC, upon application filed in compliance with Chapter 11, Water Code, to grant the district permits to take unappropriated water of the Sabine and Neches rivers and their tributaries. Deletes text regarding the State Board of Water Engineers. Makes a conforming change.

SECTION 3.15. Amends Section 23, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) to authorize the district to establish or otherwise provide for public parks and recreation facilities, and to acquire land within the district, rather than adjacent to any reservoir in which said district owns water rights.

SECTION 3.16. Amends Section 26, Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) as follows:

Sec. 26. New heading: COORDINATION WITH OTHER DISTRICTS. Deletes text regarding territory detached from any other district or authority.

SECTION 3.17. Provides that the amendment or repeal of any provision of Chapter 412, Acts of the 53rd Legislature, Regular Session, 1953 (Article 8280-157, V.T.C.S.) by SECTION 4.01 of this Act does not affect a bond, note, or other obligation issued by the Upper Neches River Municipal Water Authority, or an ad valorem tax imposed by the Upper Neches River Municipal Water Authority to secure the payment of a bond, note, or other obligation issued by the authority, under that Act before September 1, 1999. Provides that the obligation is governed by the terms of the contract and the law is continued in effect for that purpose. Provides that any ad valorem tax imposed by the authority before September 1, 1999, to secure the payment of an obligation issued by the authority before September 1, 1999, remains in effect and shall be collected by the authority until the obligation the payment of which is secured by the tax is finally paid, and the former law is continued in effect for that purpose.

SECTION 3.18. Sets forth certain actions which transpire on September 1, 1999.

ARTICLE 4. REPEALER; TRANSITIONS; EFFECTIVE DATE EMERGENCY

SECTION 4.01. Repealer: Chapter 97, General Law, Acts of the 44th Legislature, Regular Session, 1935, (Article 8280-108, V.T.C.S.)

(b) Repealer: Sections 6, 14, 16, 21, 24, and 24A, (Article 8280-157, V.T.C.S.)

SECTION 4.02. Requires the Angelina and Neches River Authority, Upper Neches River Authority and the Lower Neches Valley Authority to cooperate in implementing the changes made by this Act.

SECTION 4.03. Requires the Lower Neches Valley Authority and the Upper Neches River Authority to each adopt any rules necessary to the administration of the territory transferred and the operation of any facilities or improvements transferred to the respective authority by this Act. Provides that a rule of the Angelina and Neches River Authority is a rule of the river authority to which the territory, facility, or improvement to which the rule applies was transferred by this Act until that river authority adopts rules under Subsection (a). Provides that a rule of the Angelina and Neches River Authority continued in effect under this subsection expires on the date the river authority for which the rule was continued in effect finally adopts rules under Subsection (a).

SECTION 4.04. Effective date: September 1, 1999.

SECTION 4.05. Emergency clause.