

## **BILL ANALYSIS**

Senate Research Center  
77R9139 SGA-F

C.S.S.B. 835  
By: Nelson  
Natural Resources  
3/7/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, the Upper Trinity Regional Water District's (district) eminent domain provisions are stricter than many other water districts, river authorities, and special law districts, requiring the district to obtain prior written permission from any city before exercising its powers. C.S.S.B. 835 amends the district's authority to exercise eminent domain when acquiring easements for pipeline purposes. The bill also enables the district to promulgate rules regarding new member membership conditions and voting rights in the district, and it authorizes the district, through a contract with a member entity, to promulgate rules regarding preservation and protection of water supply, treatment facilities, and solid waste facilities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the board of directors of the Upper Trinity Regional Water District in SECTION 1 (Section 6, Chapter 1053, Acts of the 71st Legislature, Regular Session, 1989) of this bill. Rulemaking authority is also granted to the Upper Trinity Regional Water District in SECTION 3 (Section 6, Chapter 1053, Acts of the 71st Legislature, Regular Session, 1989) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 6(d), Chapter 1053, Acts of the 71st Legislature, Regular Session, 1989, to change the applicable date regarding contracts with the district from two years after the effective date of this Act to March 13, 2000. Authorizes the board of directors of the Upper Trinity Regional Water District (board) to establish rules for admission of entities regarding membership on the board, the authority of board members to vote, and the weight to be given to votes on matters requiring a weighted vote.

SECTION 2. Amends Section 21(c), Chapter 1053, Acts of the 71st Legislature, Regular Session, 1989, to prohibit the district from exercising the power of eminent domain to acquire any property located in a municipality located in whole or in part in the district without prior consent by resolution of the governing body of the municipality in which jurisdiction of the subject property is located, except for the purpose of acquiring easements for pipeline purposes in municipalities that had not appointed a director who serves on the board or who served on the board on January 1, 2001.

SECTION 3. Amends Section 27, Chapter 1053, Acts of the 71st Legislature, Regular Session, 1989, by adding Subsections (d)-(h), as follows:

(d) Authorizes the Upper Trinity Regional Water District (district), under a contract with a county, municipality, or water district, to adopt and enforce rules applicable in the boundaries of that county, municipality, or water district and in other areas of jurisdiction of the county, municipality, or water district to do certain things.

(e) Prohibits rules adopted under Subsection (d) from exceeding the authority of the county, municipality, or water district; requires the rules to be consistent with and no more stringent than state or federal requirements; requires the rules to conform to the terms of the contract; and provides that the rules are not applicable within a municipality that is not a party to the contract

or does not consent to the rules being applicable with the municipality.

(f) Requires the district to publish once a week for two consecutive weeks in one or more newspapers with general circulation in the district a notice of the substance of the rules adopted under Subsection (d) of this section and of any penalties for a violation of the rules.

(g) Prohibits a penalty for a violation of the rules from taking effect before the fifth day after the date of the second publication of the notice.

(h) Provides that a violation of a rule adopted under this section is a Class C misdemeanor.

SECTION 4. Amends Section 38(c), Chapter 1053, Acts of the 71st Legislature, Regular Session, 1989, to require a petition to specify the boundaries of the proposed subdistrict in a manner satisfactory to and approved by the district's executive director and general counsel.

SECTION 5. Sets forth provisions regarding resolutions, orders, contracts, and other acts or attempted acts of the board.

SECTION 6. Provides that Section 5 of this Act does not apply to or affect litigation pending on the effective date of this Act in any court of competent jurisdiction in this state to which the district is a party.

SECTION 7. Sets forth findings related to procedural requirements.

SECTION 8. Effective date: upon passage or September 1, 2001.

#### **SUMMARY OF COMMITTEE CHANGES**

Differs from original as follows:

SECTION 2. Restores phrase relating to the location of any property located in a certain municipality that was deleted in the original. Adds language relating to an exception to the prohibition of the district exercising the power of eminent domain allowing the district to do so for the purpose of acquiring easements for pipeline purposes in certain municipalities. Changes the description of the certain municipalities from ones that had appointed a director who serves on the board or who served on the board on January 1, 2001, to ones that had not appointed a director who serves on the board or who served on the board on January 1, 2001.

SECTION 3. Adds requirements for rules adopted under Subsection (d) to include that the rules must be consistent with and no more stringent than state or federal requirements and that the rules are not applicable within a municipality that is not a party to the contract or does not consent to the rules being applicable within the municipality.