

BILL ANALYSIS

Senate Research Center

S.B. 745
By: Williams
Natural Resources
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As Filed

DIGEST AND PURPOSE

Current Texas law provides for the creation of conservation and reclamation districts which are authorized to incur indebtedness to provide permanent improvements and to levy taxes for the maintenance and operation of such improvements and for the repayment of such indebtedness. As proposed, S.B. 745 creates a conservation and reclamation district to be known as East Montgomery County Municipal Utility District No. 4, of Montgomery County, Texas, over a portion of the land to be developed as a retail or commercial park and residential community in the eastern portion of Montgomery County.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. CREATION. (a) Creates a conservation and reclamation district, to be known as East Montgomery County Municipal Utility District No. 4, of Montgomery County, Texas, in Montgomery County, subject to approval at a confirmation election under Section 9 of this Act. Provides that the district is a governmental agency and a body politic and corporate.

(b) Provides that the district is created under, and is essential to accomplish the purposes, of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. DEFINITION. Defines "district."

SECTION 3. BOUNDARIES. Provides that the district includes the territory contained within a certain area.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. Provides that the legislature finds that the boundaries and field notes of the district form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the validity of its bonds, notes, or indebtedness, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

SECTION 5. FINDING OF BENEFIT. Provides that all of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. Creates the district to serve a public use and benefit.

SECTION 6. POWERS. (a) Provides that the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49, 50 and 54, Water Code, applicable to municipal utility districts created under Article XVI, Section 59, of the Texas Constitution. Provides that this Act prevails over any provision of general law that is in conflict

or inconsistent with this Act.

(b) Provides that the rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Commission on Environmental Quality (TCEQ).

SECTION 7. BOARD OF DIRECTORS. (a) Provides that the district is governed by a board of five directors.

(b) Provides that temporary directors serve until permanent directors are elected under Section 9 of this Act.

(c) Provides that permanent directors serve terms of office as provided in Section 49.103, Water Code.

(d) Requires each director to qualify to serve as director in the manner provided by Section 49.055, Water Code.

(e) Provides that a director serves until the director's successor has qualified.

SECTION 8. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Authorizes a person who owns land included in the district, on or after the effective date of this Act, to petition TCEQ to appoint the five temporary directors listed in the petition. Requires TCEQ to appoint the directors listed in the petition. Requires TCEQ, if it receives more than one petition under this subsection, to appoint the directors listed in the first petition it receives.

(b) Requires a person appointed to be a temporary director to take the oath of office as soon as practicable.

(c) Requires TCEQ to appoint an individual to fill the vacancy, if an appointee of TCEQ fails to qualify or if a vacancy occurs in the office of temporary director.

(d) Requires the directors to meet and elect officers from among their membership as soon as all temporary directors have qualified.

SECTION 9. CONFIRMATION AND DIRECTORS' ELECTION. (a) Requires the temporary board of directors to call and hold an election to confirm establishment of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

(b) Provides that Section 41.001(a) of the Election Code does not apply to a confirmation and director's election held as provided by this section.

SECTION 10. ELECTION OF DIRECTORS. (a) Requires an election to be held in the district on the uniform election date, established by the Election Code, in May of each even-numbered year, to elect the appropriate number of directors.

(b) Authorizes the board of directors by order to postpone the first such election following the Confirmation and Directors Election held in accordance with the provisions of Section 9 hereof if certain conditions exist.

SECTION 11. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Requires the district, subject to the limitations of Section 54.016, Water Code, to comply with all valid and applicable requirements of any ordinance or resolution adopted by any municipality in whose corporate limits or extraterritorial jurisdiction the district is located, including an ordinance or resolution adopted before the effective date of this Act, consenting to the creation of the

district or to the inclusion of lands within the district.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) Provides that the proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to TCEQ.

(b) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 13. EFFECTIVE DATE; EXPIRATION DATE. (a) Effective date: September 1, 2003.

(b) Provides that if the creation of the district is not confirmed at a confirmation election held under Section 9 of this Act before September 1, 2008, this Act expires on that date.