

BILL ANALYSIS

Senate Research Center
79R12041 SGA-F

H.B. 3576
By: Mowery (Brimer)
Natural Resources
5/23/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Benbrook Water and Sewer Authority (authority) was created in 1955 and given broad powers to provide and regulate water within the corporate city limits of Benbrook, Texas.

H.B. 3576 updates the authority's 1955 enabling legislation to cross-reference modern day Water Code and Election Code provisions and allows a name change to remove "sewer" from the name.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Benbrook Water Authority in SECTION 3 (Section 5, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, V.T.C.S)) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, V.T.C.S), to rename the Benbrook Water and Sewer Authority as the Benbrook Water Authority (authority).

SECTION 2. Amends Sections 3(b), (c), and (f), Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, V.T.C.S), as follows:

(b) Makes a nonsubstantive change.

(c) Requires a regular election for the directors to be held on the first Saturday in April of each year after 1969 and before 1994. Requires regular elections, after 1993, to be held on a uniform date and provides that they are governed by Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code. Provides that only qualified voters residing in the authority are entitled to vote at an election of directors. Requires the two candidates receiving the highest number of votes, after 1969 and before 1997, in even-numbered years, to be elected to serve for a period of two years and in odd-numbered years, the three candidates receiving the highest number of votes to be elected to serve for two years.

Requires three directors to be elected in 1997, and the three candidates receiving the highest number of votes in that year to be elected for a term of three years. Requires the three candidates receiving the highest number of votes, in the election of directors held in 2000 and in every subsequent election at which three directors are elected, be elected for a four year term. Requires the two candidates receiving the highest number of votes, in the election of directors held in 1998 and in every subsequent election at which two directors are elected, to be elected to a four year term. Makes conforming and nonsubstantive changes.

(f) Provides that Section 49.060 (Fees of Office; Reimbursement), Water Code, governs a director's entitlement to fees of office and reimbursement of expenses, except that the board of directors of the authority, by resolution, is authorized to establish a lower fee of office than the fee authorized by that section. Deletes existing text regarding fee entitlement and approved reimbursements.

SECTION 3. Amends Section 5, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, V.T.C.S), as follows:

Sec. 5. Authorizes the authority to regulate the drilling, equipping, completion, location, and production of groundwater wells in the manner in which the City of Benbrook, Texas, could regulate such wells under its home-rule authority or as otherwise provided by this Act. Authorizes the authority to require that a person obtain a permit before drilling, equipping, completing, altering, or operating a well in the authority's boundaries. Prohibits the authority from unreasonably withholding issuance of a permit if an applicant can make specific determinations. Authorizes the authority to adopt rules to implement this section.

SECTION 4. Amends Section 6, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955, to replace the reference to Title 52, Revised Civil Statutes with Chapter 21 (Eminent Domain), Property Code, and Section 49.222 (Eminent Domain), Water Code.

SECTION 5. Amends Section 8(b), Chapter 123, Acts of the 54th Legislature, Regular Session, 1955, to delete text referring to the calculation of standard bond interest tables. Makes a conforming change.

SECTION 6. Amends Section 13, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955, to authorize the authority to enter into interlocal agreements with cities and others in accordance with Chapter 791 (Interlocal Cooperation Contracts), Government Code, to coordinate the respective statutory obligations and powers of each party to the agreement, upon determining that entering into an interlocal agreement is beneficial to the authority.

SECTION 7. Amends Section 17, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955, to require the authority to have and exercise, and provide that it is hereby vested with all the rights, power and privileges conferred by the General Laws of this State, including Chapters 49 and 51, Water Code. Provides that if Chapters 49 and 51, Water Code, conflict, Chapter 51 controls. Provides that except as provided by this Act, Chapter 36, Water Code, does not apply to the authority. Makes a nonsubstantive change.

SECTION 8. Repealer: Section 3(d) and Section 7, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, V.T.C.S).

SECTION 9. (a) Provides that any act or proceeding taken by or on behalf of the Benbrook Water and Sewer Authority before the effective date of this Act, including any election, is validated in all respects as if the act or proceeding had occurred as authorized by law.

(b) Prohibits a governmental act or proceeding of the Benbrook Water and Sewer Authority or the Benbrook Water Authority occurring after an act or proceeding validated by this Act from being held invalid on the ground that the prior act or proceeding, in the absence of this Act, was invalid.

(c) Provides that Subsections (a) and (b) of this section do not apply to any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court or has been held invalid by a final judgment of a court.

SECTION 10. 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 11. Effective date: upon passage or September 1, 2005.