

BILL ANALYSIS

Senate Research Center
79R12573 QS-F

H.B. 812
By: Flynn (Deuell)
Intergovernmental Relations
5/17/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 812 creates the Sunrise Municipal Utility District of Hunt County, and enumerates its powers, duties, and obligations.

The bill proposes to combine the traditional powers and duties of a municipal utility district as governed by Chapters 49 (Provisions Applicable to all Districts) and 54 (Municipal Utility Districts) Water Code, with the powers of road districts described in Chapter 257 (Road Districts) Transportation Code, and the powers of divisibility found in Chapter 53 (Fresh Water Supply Districts), Water Code. In addition, certain taxing units are authorized to extend the period for tax abatement agreements with the district to 35 years.

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. Amends Subtitle F, Title 6, Special District Local Laws Code, by adding Chapter 8107, as follows:

CHAPTER 8107. SUNRISE MUNICIPAL UTILITY DISTRICT OF HUNT COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8107.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8107.002. NATURE OF DISTRICT. Provides that the Sunrise Municipal Utility District of Hunt County (district) is a municipal utility district in Hunt County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution. Provides that the district is created to serve a public use and benefit.

Sec. 8107.003. CONFIRMATION ELECTION REQUIRED. Provides that certain actions will occur if the creation of the district is not confirmed at a confirmation election held under Section 81.07.023 before September 1, 2007.

Sec. 8107.004. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect certain aspects of the district.

[Reserves Sections 8107.005-8107.020 for expansion.]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8107.021. TEMPORARY DIRECTORS. (a) Provides the names of the members of the temporary board.

(b) Requires the temporary directors who have qualified for office, if a temporary director fails to qualify for office, to appoint a person to fill the vacancy. Requires the Texas Commission on Environmental Quality, if at any time there are fewer than three qualified temporary directors, to appoint the necessary number of person to fill all vacancies on the board.

(c) Provides that temporary directors serve until the earlier of certain specified dates.

Sec. 8107.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires the temporary directors, as soon as practicable after all the temporary directors have qualified under Section 49.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. Requires the organizational meeting, if a location cannot be agreed upon, to be at the Hunt County Courthouse.

Sec. 8107.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires the temporary directors to hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102 (Confirmation and Director Election), Water Code.

Sec. 8107.024. INITIAL ELECTED DIRECTORS; TERMS. Requires the directors elected under Section 8107.023 to draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8107.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8107.025. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 8107.026-8107.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8107.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors who serve staggered four-year terms.

Sec. 8107.052. ELECTION OF DIRECTORS. Requires the appropriate number of directors to be elected on the uniform election date in May of each even-numbered year.

[Reserves Sections 8107.053-8107.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8107.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. Provides that has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8107.102. ROAD PROJECTS. (a) Authorizes the district to construct, acquire, improve, maintain, or operate macadamized, graveled, paved, or concreted streets or roads, or improvements in aid of those streets or roads, including bridges, inside or outside the district.

(b) Requires a project authorized by this section to meet only the construction standards adopted by the North Central Texas Council of Governments, or its successor agency.

Sec. 8107.103. ROAD CONTRACTS. Authorizes the district to contract for a road project in the same manner as a road district, except that competitive bidding for a contract is governed by Subchapter I, Chapter 49 (Provisions Applicable to All Districts), Water Code.

Sec. 8107.104. WATER CONTROL AND STORAGE PROJECTS. (a) Authorizes the district to construct, acquire, improve, enlarge, extend, repair, or maintain dams, levees, walls, dikes, embankments, canals, reservoirs, lakes, or other improvements as necessary to control, store, or preserve water in the district for any useful purpose.

(b) Authorizes the district to overflow and inundate public lands and other public property in the district.

(c) Provides that a project authorized by this section is subject to all applicable permitting and regulatory requirements.

Sec. 8107.105. CERTIFICATE OF CONVENIENCE AND NECESSITY. (a) Authorizes the district to pay out of bond proceeds or other available district money all expenses, including legal, engineering, and other fees, related to obtaining a new certificate of convenience and necessity under Chapter 13 (Water Rates and Services), Water Code, authorizing the district to provide retail water or sewer service inside or outside the district.

(b) Authorizes the district to pay out of bond proceeds or other available district money all expenses, including the purchase price, related to acquiring certificate of convenience and necessity rights from another retail public utility to allow the district to provide retail water or sewer service in the district.

Sec. 8107.106. CONTRACT WITH POLITICAL SUBDIVISION FOR WATER OR SEWER SERVICES. (a) Authorizes the district to enter into a contract to allow a political subdivision to provide retail water or sewer service in the district. Authorizes the contract to contain terms the board considers desirable, fair, and advantageous to the district.

(b) Authorizes the contract to provide that the district will construct or acquire and convey to the political subdivision a water supply or treatment system, a water distribution system, or a sanitary sewage collection or treatment system, as necessary to provide water or sewer service in the district.

(c) Authorizes the district to use bond proceeds or other available district money to pay for its obligations and for services and facilities provided under the contract.

(d) Provides that if the contract requires the district to make payments from taxes other than operation and maintenance taxes, the contract is subject to Section 49.108 (Contract Elections), Water Code.

[Reserves Sections 8107.107-8107.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8107.151. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district to impose a tax for any district operation and maintenance purpose in the manner provided by Section 49.107 (Operation and Maintenance Tax), Water Code.

(b) Provides that Section 49.107(f), Water Code, does not apply to reimbursements for projects constructed or acquired under Section 8107.102.

Sec. 8107.152. TAX TO REPAY BONDS. Authorizes the district to impose a tax to pay the principal of and interest on bonds issued under Section 8107.201.

Sec. 8107.153. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of certain utilities and services.

[Reserves Sections 8107.154-8107.200 for expansion.]

SUBCHAPTER E. BONDS

Sec. 8107.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, and to finance certain costs.

(b) Prohibits the district from issuing bonds or other obligations secured wholly or partly by ad valorem taxation to finance projects authorized by Section 8107.101 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Prohibits bonds or other obligations issued or incurred to finance projects authorized by Section 8107.102 from exceeding one-fourth of the assessed value of the real property in the district.

(d) Provides that Sections 49.181 (Authority of Commission Over Issuance of District Bonds) and 49.182 (Commission Supervision of Projects and Improvements), Water Code, do not apply to a project undertaken by the district under Section 8107.102 or to bonds issued by the district to finance the project.

[Reserves Sections 8107.202-8107.250 for expansion.]

SUBCHAPTER F. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 8107.251. DIVISION OF DISTRICT; REQUIREMENTS. (a) Authorizes the district, including any annexed territory, at any time before the district issues indebtedness secured by taxes or net revenues, to be divided into two or more new districts.

(b) Requires a new district created by division of the district to be at least one hundred acres.

(c) Authorizes the board to consider a proposal to divide the district on certain grounds.

(d) Requires the board, if the board decides to divide the district, to take certain actions regarding the division.

Sec. 8107.252. ELECTION FOR DIVISION OF DISTRICT. (a) Requires the board, after it has complied with Section 8107.251(d), to hold an election in the district to determine whether the district should be divided as proposed.

(b) Requires the board to give notice of the election not later than the 35th day before the date of the election. Requires the notice to state certain information.

(c) Provides that certain actions are required to be taken if a majority of the votes are cast in favor of the division.

(d) Prohibits the district from being divided if a majority of the votes are not cast in favor of the division.

Sec. 8107.253. ELECTION OF DIRECTORS OF NEW DISTRICTS. (a) Requires the board, not later than the 90th day after the date of an election in favor of the division of the district, to make certain appointments.

(b) Provides that directors appointed under Subsection (a)(1) serve the staggered terms to which they were elected in the original district. Provides that directors appointed under Subsection (a)(2) serve until the election for directors under Subsection (c).

(c) Requires an election to be held to elect five directors in each district for which directors were appointed under Subsection (a)(2) on the uniform election date in May of the first even-numbered year after the year in which the directors are appointed. Requires the directors to draw lots to determine which two will serve two-year terms and which three will serve four-year terms.

(d) Provides that, except as provided by Subsection (c), directors serve staggered four-year terms. Requires the appropriate number of directors to be elected on the uniform election date in May of each even-numbered year.

Sec. 8107.254. CONTINUING POWERS AND OBLIGATIONS OF NEW DISTRICTS. (a) Authorizes each new district to incur and pay debts and provides that the district has all powers of the original district created by this chapter.

(b) Provides that if the district is divided as provided by this subchapter, the current obligations and any bond authorizations of the district are not impaired. Requires debts to be paid by revenues or by taxes or assessments imposed on real property in the district as if the district had not been divided or by contributions from each new district as stated in the terms set by the board under Section 8107.251(d).

(c) Requires any other district obligation to be divided pro rata among the new districts on an acreage basis or on other terms that are satisfactory to the new districts.

Sec. 8107.255. CONTRACT AUTHORITY OF NEW DISTRICTS. Authorizes the new districts to contract with each other for certain services and matters.

SECTION 2. Sets forth the initial territories and areas contained in the district.

SECTION 3. Provides that all requirements of the constitution and the 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 4. Effective date: upon passage or September 1, 2005.