

BILL ANALYSIS

Senate Research Center
85R22980 GRM-F

H.B. 4270
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Administration
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Commission on Environmental Quality created Anthem Municipal Utility District (district) by order dated July 25, 2016. The district contains 673 acres, a school site of 13 acres, and nine acres of commercial property. This bill adds road powers to the Anthem MUD H.B. 4270 authorizes the district, after an election, to levy assessments to help finance recreational facilities. In the subdivisions in this part of Hays County, “recreational facilities” generally means parks and open space. An assessment levied by the district is to provide a means of funding for maintenance. The language in the bill does not authorize the assessment to be used to secure bonds for recreational matters. The assessment is an option in the event that the district owns the recreational facilities instead of the homeowners’ association.

H.B. 4270 amends current law relating to the Anthem Municipal Utility District, provides authority to issue bonds, and provides authority to impose assessments, fees, and taxes.

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 7979 as follows:

CHAPTER 7979. ANTHEM MUNICIPAL UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7979.001. DEFINITIONS. Defines “board,” “commission,” “director,” and “district.”

Sec. 7979.002. NATURE OF DISTRICT. Provides that the Anthem Municipal Utility District (district) is a municipal utility district (MUD) created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 7979.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) Provides that the district is created to serve a public purpose and benefit.

(b) Provides that the district is created to accomplish the purposes of:

(1) a MUD as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III (Legislative Department), Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized,

graveled, or paved roads, or improvements, including storm drainage and landscaping, in aid of these roads.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 7979.051. GENERAL POWERS AND DUTIES. Provides that the district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7979.052. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. Provides that the district has the powers and duties provided by the general law of this state, including Chapters 49 (Provisions Applicable To All Districts) and 54 (Municipal Utility Districts), Water Code, applicable to MUDs created under Section 59, Article XVI, Texas Constitution.

Sec. 7979.053. AUTHORITY FOR ROAD PROJECTS. Authorizes the district under Section 52, Article III, Texas Constitution, to design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage and landscaping, in aid of those roads.

Sec. 7979.054. ROAD STANDARDS AND REQUIREMENTS. (a) Requires a road project to meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) Requires a road project not located in the corporate limits or extraterritorial jurisdiction of a municipality to meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) Requires the Texas Transportation Commission (TTC) to approve the plans and specifications of the road project if the state will maintain and operate the road.

Sec. 7979.055 STRATEGIC PARTNERSHIP AGREEMENT. Authorizes the district to negotiate and enter into a written strategic partnership agreement with:

(1) a municipality under Section 43.0751 (Strategic Partnerships for Continuation of Certain Districts), Local Government Code; and

(2) a municipality that provides water and wastewater services to the district.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 7979.101 ELECTIONS REGARDING TAXES OR BONDS. (a) Authorizes the district to issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 7979.103.

(b) Requires the district to hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Prohibits the district from issuing bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec.7979.102. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held under Section 7979.101, to impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code.

Sec. 7979.103. CONTRACT TAXES. (a) Authorizes the district, in accordance with Section 49.108 (Contract Elections), Water Code, to impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) Authorizes a contract approved by the district voters to contain a provision stating that the contract may be modified or amended by the board without further voter approval.

SUBCHAPTER D. ASSESSMENTS; APPLICABILITY OF IMPACT FEES AND ASSESSMENTS

Sec. 7979.151. PETITION REQUIRED FOR FINANCING RECREATIONAL FACILITIES, IMPROVEMENTS, AND SERVICES WITH ASSESSMENTS. (a) Authorizes the board to finance the construction or maintenance of a recreational facility or improvement or finance the provision of a recreational service with assessments on commercial or residential property, or both, under this subchapter, but only if:

(1) a written petition requesting that facility, improvement, or service has been filed with the board; and

(2) the board holds a hearing on the proposed assessments.

(b) Requires the petition to be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 7979.152. METHOD OF NOTICE FOR HEARING. Requires the district to mail notice of the hearing to each property owner in the district who will be subject to the assessment at the current address to be assessed as reflected on the tax rolls. Authorizes the district to mail the notice by certified or first class United States mail. Requires the board to determine the method of notice.

Sec. 7979.153. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Provides that an assessment or a reassessment imposed under this subchapter by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(b) Provides that the lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid and authorizes the board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(c) Authorizes the board to make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without

providing notice and holding a hearing in the manner required for additional assessments.

Sec. 7979.154. 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:

(1) an electric utility or a power generation company as defined by Section 31.002 (Definitions), Utilities Code;

(2) a gas utility as defined by Section 101.003 (Definitions) or 121.001 (Definition of Gas Utility), Utilities Code;

(3) a telecommunications provider as defined by Section 51.002 (Definitions), Utilities Code; or

(4) a person who provides to the public cable television or advanced telecommunications services.

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 7979.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Authorizes the district to issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 7979.202. TAXES FOR BONDS. Requires the board, at the time the district issues bonds payable wholly or partly from ad valorem taxes, to provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 (Tax Levy for Bonds) and 54.602 (Establishment of Tax Rate in Each Year), Water Code.

Sec. 7979.203. BONDS FOR ROAD PROJECTS. Prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes from exceeding one fourth of the assessed value of the real property in the district at the time of issuance.

SECTION 2. (a) Provides that all governmental and proprietary actions and proceedings of the district taken before the effective date of this Act are validated, ratified, and confirmed in all respects as of the dates on which they occurred.

(b) Provides that this section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

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, 2017.