

BILL ANALYSIS

Senate Research Center

S.B. 978
By: Hinojosa
Intergovernmental Relations
8/17/2011
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The proposed legislation is a local bill and only applies to Hidalgo County Water Improvement District No. 3 (district) and is bracketed to apply only to the City of McAllen.

The district pumps more than 80 percent of its water supply directly to the City of McAllen for municipal purposes. The district serves very few agricultural users and the City of McAllen is positioned to continue to serve those few agricultural customers without any disruption of services.

Furthermore, the bill contains several safeguards including the requirement for a two-thirds vote of the city commission to adopt an ordinance dissolving the district, the ability for citizens to petition to place the issue on the ballot for an election, and the requirement that certain findings be made to ensure that no one receiving service from the district is left without service.

S.B. 978 amends current law relating to procedures for the dissolution of the Hidalgo County Water Improvement District No. 3.

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. DEFINITIONS. Defines, in this act, "city," "city council," "district," and "district board."

SECTION 2. DISTRICT AND MUNICIPALITY TO WHICH ACT IS APPLICABLE. Provides that this Act applies only to the Hidalgo County Water Improvement District No. 3 (district), and a municipality that has a population greater than 100,000, and contains within its corporate boundaries or extraterritorial jurisdiction more than half of the district's territory.

SECTION 3. DISSOLUTION OF DISTRICT; FINDINGS PREREQUISITE TO MOTION TO TRANSFER. (a) Provides that the district is dissolved on the later of:

- (1) the effective date of this Act; or
- (2) the date a transfer ordinance adopted pursuant to Section 5 of this Act takes effect under Section 8 of this Act.

(b) Authorizes a city, at a regularly scheduled meeting of the city council, to propose an ordinance to allow the city to accept a transfer of the obligations, liabilities, and assets of the district if the city council finds that as of the date of the meeting:

- (1) at least 80 percent of the raw water diverted by the district in the preceding 12 months was diverted for use by the city;
- (2) the city is capable of assuming all rights and obligations of the district;

(3) the city is capable of assuming responsibility for operating the district's facilities to benefit the district's existing customers and performing the services and functions performed by the district;

(4) dissolution of the district will result in an overall cost savings to city residents; and

(5) dissolution of the district will result in a more stable water supply for residents of the city and surrounding communities.

SECTION 4. HEARING REQUIRED. (a) Requires the city, before the city is authorized to propose an ordinance described by Section 5 of this Act, to conduct a public hearing on the issue.

(b) Requires that notice of the public hearing be posted in accordance with the laws that apply to regular meetings of the city council, and mailed to each district board member.

SECTION 5. TRANSFER ORDINANCE. (a) Authorizes the city council, after a city council has made the findings required by Section 3(b) of this Act and has conducted a public hearing as required by Section 4 of this Act, to adopt an ordinance allowing the city to accept a transfer of the district's obligations, liabilities, and assets.

(b) Requires that the ordinance contain provisions that:

(1) eliminate the required payment of any flat tax or assessments paid to the district by landowners in the district;

(2) ensure that all water rights are held in trust by the city for the uses previously adjudicated;

(3) ensure that all individual water users are entitled to continue to use or have access to the same amount of water they were entitled to before the dissolution of the district;

(4) require the city to perform all the functions of the district, including the provision of services; and

(5) ensure delivery of water to landowners at or below the lowest comparable delivery charge imposed by any other irrigation district in Hidalgo County.

(c) Provides that the ordinance takes effect only if two-thirds of the city council votes in favor of the ordinance.

SECTION 6. CITY CONSENT; DISTRICT DUTIES. (a) Requires the district board of directors, on or before the effective date of the ordinance described by Section 5 of this Act, to provide the district's management and operational records to the city that passed the ordinance to ensure the orderly transfer of management and operational responsibility to the city.

(b) Prohibits the district, without the consent of a majority of the members of a city council that publishes notice under Section 4(b) of this Act, from:

(1) selling, transferring, or encumbering any district asset;

(2) issuing debt or acquiring additional obligations; or

(3) defaulting on or failing to honor financial, legal, or other obligations of the district.

(c) Requires the district, unless a majority of the members of a city council that publishes notice under Section 4(b) of this Act agree otherwise, to:

(1) maintain assets of the district in an appropriate condition reflective of good stewardship and proper repair; and

(2) preserve district records, including information maintained by the district in electronic format.

(d) Provides that any action undertaken by the district that does not comply with Subsection (b) of this section is void.

(e) Provides that this section expires on the date a city that has published notice under Section 4(b) of this Act repeals the city's ordinance described by Section 5 of this Act.

SECTION 7. PETITION BY VOTERS; SUSPENSION OR REPEAL OF ORDINANCE; ELECTION. (a) Authorizes the voters of the district and of a city that enacts a transfer ordinance under this Act to object to the ordinance by filing a petition with the secretary of the city.

(b) Requires that the petition be signed by at least five percent of the combined total of registered voters who reside in the city or any part of the district outside the city.

(c) Requires that the petition be filed not later than the 30th day after the date the city council votes in favor of the transfer ordinance under Section 5(c) of this Act.

(d) Requires the city secretary to verify the signatures on the petition and to present the verified petition to the city council at the council's next scheduled meeting.

(e) Requires the city council, on receipt of the petition, to suspend the effectiveness of the ordinance, and prohibits the city from taking action under the ordinance unless the ordinance is approved by voters under Subsection (f) of this section.

(f) Requires the city council to reconsider the suspended ordinance at the next scheduled meeting of the council. Requires the city council, if the city council does not repeal the transfer ordinance, to submit a proposition for or against enactment of the ordinance to the voters of the city and the district at an election held jointly by the city and the district on the next uniform election date. Provides that the transfer ordinance takes effect if a majority of the voters voting in that election vote in favor of the transfer.

SECTION 8. EFFECTIVE DATE OF TRANSFER. Provides that a transfer ordinance under this Act takes effect on the date:

(1) the period for filing a voter petition expires under Section 7(c) of this Act, if a voter petition is not filed under that section; or

(2) the voters approve the transfer ordinance under Section 7(f) of this Act.

SECTION 9. TRANSFER OF ASSETS. (a) Requires the district, on or before the effective date of a transfer ordinance under Section 8 of this Act, to:

(1) transfer to the city the ownership of any water rights and certificates of adjudication;

(2) transfer the assets, debts, and contractual rights and obligations of the district to the city; and

(3) provide notice and make recordings of the transfers under this section as required by the Water Code and other law.

(b) Requires the Texas Commission on Environmental Quality (TCEQ), on receipt of notice of the transfer of a district certificate or adjudication, to note in its records that the

certificate of adjudication is owned and held by the city. Requires TCEQ to transfer the district's certificate to the city as a ministerial act without further application, notice, or hearing. Provides that a person or other legal entity does not have a right to object to or to request an administrative review of a transfer made in accordance with this Act.

(c) Provides that the transfer of the district's water rights and any certificate of adjudication to the city does not affect or impair the priority, extent, validity, or purpose of the water rights or certificate.

SECTION 10. EXPIRATION. Provides that this Act expires January 1, 2016.

SECTION 11. EFFECTIVE DATE. Effective date: upon passage or September 1, 2011.