

BILL ANALYSIS

C.S.S.B. 978
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Border & Intergovernmental Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Hidalgo County Water Improvement District No. 3 pumps most of its water supply for municipal purposes and serves few agricultural users. It has been suggested that a certain municipality would be better positioned to continue to fulfill those municipal purposes and serve those few agricultural customers without any disruption of services. C.S.S.B. 978 seeks to address this issue by establishing procedures relating to the dissolution of the Hidalgo County Water Improvement District No. 3.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 978 establishes that the Hidalgo County Water Improvement District No. 3 is dissolved on the later of the bill's effective date or the date a transfer ordinance adopted under the bill's provisions takes effect.

C.S.S.B. 978 authorizes a municipality with a population greater than 100,000 and containing within its corporate boundaries or extraterritorial jurisdiction more than half of the territory of the Hidalgo County Water Improvement District No. 3, 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 at least 80 percent of the raw water diverted by the district in the preceding 12 months was diverted for use by the city, the city is capable of assuming all rights and obligations of the district, 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, dissolution of the district will result in an overall cost savings to city residents, and dissolution of the district will result in a more stable water supply for residents of the city and surrounding communities.

C.S.S.B. 978 requires such a city to conduct a public hearing on the issue before the city may propose such a transfer ordinance. The bill requires notice of the public hearing to be posted in accordance with the laws applicable to regular meetings of the city council and mailed to each district board member.

C.S.S.B. 978 authorizes a city council to adopt an ordinance allowing the city to accept a transfer of the district's obligations, liabilities, and assets after the city council has made the required findings and has conducted the required public hearing. The bill requires such an ordinance to contain provisions that eliminate the required payment of any flat tax or assessments paid to the district by landowners in the district, ensure that all water rights are held in trust by the city for the uses previously adjudicated, 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, require the city to perform all the functions of the district including the provision of services, and ensure delivery of water to landowners at or below the lowest comparable delivery charge imposed by any other irrigation district in Hidalgo County. The bill establishes that the ordinance takes effect only if two-thirds of the city council votes in favor of the ordinance.

C.S.S.B. 978 requires the district's board of directors, on or before the effective date of the transfer ordinance, 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. The bill prohibits the district, without the consent of a majority of the members of a city council that publishes notice, from selling, transferring, or encumbering any district asset; issuing debt or acquiring additional obligations; or defaulting on or failing to honor financial, legal, or other obligations of the district. The bill requires the district, unless a majority of the members of a city council that publishes notice agree otherwise, to maintain assets of the district in an appropriate condition reflective of good stewardship and proper repair and to preserve district records, including information maintained by the district in electronic format. The bill makes void any action undertaken by the district that does not comply with the prohibitions on the district. The bill makes these provisions relating to city consent and district duties expire on the date a city that has published notice repeals the city's transfer ordinance.

C.S.S.B. 978 authorizes the voters of the district and of a city that enacts a transfer ordinance under the bill's provisions to object to the ordinance by filing a petition with the secretary of the city. The bill requires the petition to 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 and to be filed not later than the 30th day after the date the city council votes in favor of the transfer ordinance. The bill requires the city secretary to verify the signatures on the petition and present the verified petition to the city council at the council's next scheduled meeting. The bill 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. The bill requires the city council to reconsider the suspended ordinance at the next scheduled meeting of the council. The bill requires the city council, if the city council does not repeal the 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. The bill establishes that the transfer ordinance takes effect if a majority of the voters voting in that election vote in favor of transfer.

C.S.S.B. 978 establishes that a transfer ordinance under the bill's provisions takes effect on the date the period for filing a voter petition expires, if a voter petition is not filed, or on the date the voters approve the transfer ordinance.

C.S.S.B. 978 requires the district, on or before the effective date of a transfer ordinance, to transfer to the city the ownership of any water rights and certificates of adjudication; transfer the assets, debts, and contractual rights and obligations of the district to the city; and provide notice and make recordings of the transfers as required by the Water Code and other law. The bill requires the Texas Commission on Environmental Quality (TCEQ), on receipt of notice of the transfer of a district certificate of adjudication, to note in its records that the certificate of adjudication is owned and held by the city. The bill requires TCEQ to transfer the district's certificate to the city as a ministerial act without further application, notice, or hearing. The bill establishes 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 the bill's provisions. The bill establishes 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.

C.S.S.B. 978 defines "city," "city council," "district," and "district board" and sets its provisions to expire January 1, 2016.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 978 contains a provision not included in the original requiring the Hidalgo County Water Improvement District No. 3 to be dissolved by the later of two specified dates.

C.S.S.B. 978 differs from the original by authorizing a city to propose an ordinance allowing the city to accept a transfer of the obligations, liabilities, and assets of the district, whereas the original authorizes a city to propose an ordinance to dissolve the district.

C.S.S.B. 978 differs from the original by requiring notice of a public hearing for such an ordinance to be mailed to each district board member, whereas the original requires the notice to be provided in writing to each member.

C.S.S.B. 978 contains a provision not included in the original requiring the transfer ordinance to contain provisions that require the city to perform all the functions of the district, including the provision of services.

C.S.S.B. 978 differs from the original by authorizing the voters of the district and of a city to object to a transfer ordinance, whereas the original authorizes the voters of a city to object to a dissolution ordinance. The substitute differs from the original by requiring a petition objecting the ordinance to 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, whereas the original requires the petition to be signed by at least five percent of the city's registered voters. The substitute differs from the original by requiring the petition be filed not later than the 30th day after the date the city council votes in favor of the ordinance, whereas the original requires the petition be filed not later than the 30th day after the date the city enacts the ordinance.

C.S.S.B. 978 differs from the original by establishing that the transfer ordinance takes effect on voter approval of the transfer, whereas the original establishes that the dissolution ordinance takes effect on voter approval of the dissolution.

C.S.S.B. 978 differs from the original by requiring a proposition for or against enactment of the ordinance to be submitted 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, whereas the original requires the proposition to be submitted to the voters at the next municipal election.