



Testimony

Testimony Before the Texas House Committee on Natural Resources *Special Purpose Districts*

by Rod Bordelon, Senior Fellow, Regulatory Affairs

Chairman King and Members of the Committee:

My name is Rod Bordelon, and I am providing testimony on behalf of the Texas Public Policy Foundation (TPPF) on the agenda item related to Hidalgo County Water Improvement District (HCWID) No. 3 as it relates to SB 2185. My testimony more broadly relates to special purpose districts in general, which includes HCWID.

The Texas Public Policy Foundation believes that all agencies of government should be subject to oversight and review similar to the sunset review performed on state agencies of the executive branch of government. Given the proliferation of special purpose districts (SPDs) in this state, their authority to levy taxes and fees, and their limited transparency and reporting, we believe some form of sunset review should be required of these SPDs. This is true of the Hidalgo County Water Improvement District and other water control and improvement districts (WCIDs) and water improvement districts (WIDs).

In October 2014, the Texas Senate Research Center released an exhaustive study of special purpose districts in Texas. They identified 3,350 SPDs in the state at that time, which also includes school districts. While school districts are the most prevalent type of special purpose district, today numbering over a thousand, there are many other districts that perform such functions as soil and water conservation, provision of water and wastewater, ground control, tourism, wildlife management, and crime control. They are created by statute and by voter approval but are not subject to the same level of transparency or regular review and oversight as are most state agencies.

Many of these districts have the power to impose property taxes, sales taxes, user fees, debt obligations and/or eminent domain. Some, but not all, report their financial information such as budgets, annual reports, and detailed spending information to the Comptroller and make the information available online.

The Senate Research Center's report identified a number of public policy questions and problems that have emerged due to the sheer number and authority of SPDs, including:

- Lack of Public Awareness
- Unnecessary, Ineffective, or Redundant Programs
- Increased Taxes
- Lack of Oversight and Accountability
- Lack of Reporting

Greater transparency should be required of all of these districts including improved reporting requirements and additional public input and oversight such as sunset review.

Reporting

Texas Government Code Section 403.0241 requires the Comptroller to create and make available on the internet a “Special Purpose District Public Information Database” which includes information to be filed by each special purpose district defined in the statute, with authority to impose an ad valorem tax or a sales and use tax, and which has outstanding bonds and gross receipts in excess of \$250,000.

Among other information, the reporting includes:

- The name of the special purpose district and of its board members;
- Contact information for the district and that of any contractors;
- Financial information required under the Local Government Code;
- Debt obligations;
- Total bonds authorized and issued;
- Rate of any sales and use tax imposed; and
- Any ad valorem tax rate imposed.

While SPDs subject to reporting are required to do so by law, the Comptroller lacks sufficient enforcement authority to ensure compliance. In fact, Section 403.0242 of the Government Code only requires the Comptroller’s office to publish a list of entities that have failed to comply but does not provide any means to determine which entities are subject to the requirement and whether or not a report is accurate. Additionally, the statute fails to provide any penalty for failing to report as required. As such, the Comptroller has indicated he is not able to verify compliance or “the accuracy or veracity of reports received under this chapter.”

In order to incentivize reporting, the Texas Comptroller created the “Public Accounts’ Transparency Stars” program to recognize government entities that provide information beyond what is required by law, including financial information on all areas of contracts and procurement, economic development, public pensions and debt obligations; and that provide financial “summaries, visualizations, downloadable data and other relevant information.”

While the Comptroller has taken important steps to obtain and make available to the public more data about these special purpose districts, his office should be provided with additional power to issue fines or other penalties for failure to file required reports.

Sunset

In the state of Texas, most agencies of state government are subject to sunset review. They are also overseen by commissioners or board members appointed by the governor and confirmed by the Senate. Their budgets are appropriated by the Legislature and their performance and activities are reviewed on an ongoing basis by legislative oversight committees. And every 12 years (or as otherwise determined by the Legislature), the entire agency and all of its authority and functions are subject to the sunset review process.

The sunset review process begins with the sunset commission thoroughly reviewing each agency with an approaching sunset date set in statute. The review first seeks to answer the question, is the agency needed? If the answer is no, then the recommendation is to eliminate that agency or allow it to expire on its sunset date. If the answer is yes, then the review will continue to further recommend ways in which the agency could be more effective and efficient. Ultimately, the Legislature decides whether to adopt or amend the recommendations and pass legislation to reauthorize the agency and its programs. If it chooses not to pass such legislation or fails to do so by the end of that regular legislative session, the agency and its programs are eliminated.

While not all agencies that are initially recommended for elimination are actually eliminated, the process is nonetheless an important check on the need and functions of the agency and their programs and helps ensure greater transparency. The process also provides an opportunity for amending the statutory authority, rules, processes and procedures for these agencies.

Unfortunately, this important sunset review process with its opportunities for transparency, greater public input, and improved efficiencies is not required or available for special purpose districts. To provide greater transparency of their existence and operations and to provide greater public input as to the need, effectiveness, and efficiency, special purpose districts should be made subject to the same sunset process as other state agencies.

In its September 2021 report to the Legislature, the Sunset Advisory Commission reports that since its creation in 1977, the sunset process has abolished 52 agencies and programs, and consolidated or transferred an additional 42, saving over \$1 billion in taxpayer funds.

In the 87th legislative regular session, the sunset commission recommended 115 statutory changes after initial recommendations and public hearings. The Legislature adopted 78% of these recommendations and added further changes on its own. The sunset commission also provided 114 management directives to state agencies to improve efficiencies and operations.

While many of the initial sunset recommendations are not adopted by the Legislature, the process nonetheless provides improvement and savings across the board, leading to more efficient and effective state government.

Recommendations

- Provide greater transparency by expanding reporting requirements and by authorizing the Comptroller to impose penalties on SPDs that do not comply with reporting requirements or fail to report timely or accurately
- Subject special purpose districts to some form of the sunset review process

Conclusion

There are thousands of special purpose districts operating in Texas with little or no oversight and very little public input. These SPDs should be subject to the state's sunset review process that exists for other existing state government agencies. That process has returned the benefits of eliminating unnecessary agencies and programs and revising other agencies and programs to be more effective and efficient. This process also results in greater public awareness and input as well as legislative action.

Current reporting requirements for SPDs lack enforcement. The Comptroller reports that not all SPDs report required financial data and the office lacks the ability to determine which SPDs are required to report such data and which are fully in compliance. The Legislature should statutorily impose penalties on SPDs for failing to report required financial information as identified in statute.

Increased transparency and oversight of special purpose districts are needed for activities such as taxing authority, debt obligations, and eminent domain. To provide this necessary transparency and oversight, the state Legislature should subject these SPDs to the same sunset process as other state government agencies and improve reporting requirements by imposing penalties on SPDs for failing to comply.

Thank you, and we would be happy to work with you on this topic. ★

ABOUT THE AUTHOR



Rod Bordelon is a distinguished senior fellow for Regulatory Affairs at the Texas Public Policy Foundation. He is an attorney and consultant with over 30 years of experience in regulatory and legislative affairs. He is an 11-term gubernatorial appointee, former Commissioner of Workers' Compensation, and former Public Insurance Counsel.

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