

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1444
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Natural Resources
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Committee Report (Substituted)

DIGEST AND PURPOSE

The Texas Constitution provides for the establishment of various general law or water districts. The Water Code governs such districts. Amendments of the Water Code may facilitate more efficient operation of those districts. C.S.S.B. 1444 amends Chapter 49 (Provisions Applicable to All Districts), Chapter 54 (Municipal Utility Districts), Chapter 51 (Water Control and Improvement Districts), Chapter 53 (Fresh Water Supply Districts) and Chapter 57 (Levee Improvement Districts).

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governing body of any district or authority of either Sections 52(b)(1) and (2) (regarding the loan of state's credit or grant of public money for toll road purposes), Article III, or Section 59 (Conservation and Development of Natural Resources; Conservation and Reclamation Districts), Article XVI, Texas Constitution, in SECTION 24 (Section 49.465, Water Code) of this bill.

Rulemaking authority is expressly granted to a water control and improvement district in SECTION 26 (Section 51.122, Water Code).

Rulemaking authority is expressly granted to a levee improvement district in SECTION 34 (Section 57.093, Water Code).

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 49.054(d), Water Code, to correct a reference to the Public Funds Investment Act.

SECTION 2. Amends Section 49.057(a), Water Code, to correct a reference to the Public Funds Investment Act.

SECTION 3. Amends Section 49.060(a), Water Code, to increase from \$100 a day to \$150 a day the maximum allowable per diem that can be paid to a water authority director.

SECTION 4. Amends Section 49.102, Water Code, by adding Subsection (i) and redesignating existing Subsection (i) as Subsection (j), to streamline the fire plan election process by providing that a district may submit to the qualified voters of the district a proposition to approve a fire plan at an election called to confirm the creation of the district.

SECTION 5. Amends Section 49.106, Water Code, by adding Subsection (e), to provide that a district's authorization to issue bonds, as approved by the qualified voters of the district, remains in effect for the life of the district.

SECTION 6. Amends Section 49.107, Water Code, by adding Subsection (g), to provide that certain procedures for calculating tax rates and levying taxes do not apply to any district's or authority's maintenance tax or taxes levied and collected for the payment of the interest on and principal of bonds

issued by a district.

SECTION 7. Amends Section 49.108, Water Code, by adding Subsection (f), to provide that certain procedures for calculating tax rates and levying taxes do not apply to a tax levied and collected for payments made under a district contract.

SECTION 8. Amends Section 49.151(c), Water Code, to clarify that the board of directors of a district may allow disbursements of district funds by wire transfer and provides procedures for doing so.

SECTION 9. Amends Section 49.155(a), Water Code, to provide that a district may pay out interest during construction from bond proceeds or other available funds of the district.

SECTION 10. Amends Section 49.183(b), Water Code, to provide that before any bonds are sold by a district, the board of directors of the district shall publish an appropriate notice of the sale of the bonds.

SECTION 11. Amends Section 49.184, Water Code, to provide that in any proceeding concerning the validity of the creation of a district or the annexation of property by a district, a certificate of ownership as certified by the central appraisal district of the county or counties in which the property is located creates a presumption of ownership, and additional proof of ownership is not required unless there is substantial evidence in the official deed records of the county in which the property is located to rebut the presumption.

SECTION 12. Amends Section 49.212, Water Code, by amending Subsection (a) and adding Subsection (e), as follows;

(a) Includes firefighting activities among those facilities or services for which a district is authorized to adopt and to enforce all necessary charges, fees, or rentals for their provision.

(e) Provides that Chapter 2007 (Governmental Action Affecting Private Property Rights), Government Code, does not apply to a tax levied, a standby fee imposed, or a charge, fee, or rental adopted or enforced by a district.

SECTION 13. Amends Section 49.218, Water Code, by adding a new Subsection (d), relettering existing Subsection (d) as Subsection (f), and adding Subsections (e), (g), and (h), as follows;

(d) Authorizes a district or water supply corporation to require a service applicant, as a condition of service, to grant a permanent recorded easement to allow the district or water supply corporation to construct and maintain facilities necessary to serve that applicant.

(e) Authorizes district or water supply corporation to require a developer of a new subdivision to provide easements to and throughout the subdivision sufficient to construct and maintain any facilities necessary to serve the subdivision.

(g) Provides that property acquired under this section, or any other law allowing the acquisition of property by a district or water supply corporation, and owned by a district or water supply corporation, is not subject to assessments, charges, fees, or dues imposed by a nonprofit corporation under Chapter 204, Property Code.

SECTION 14. Amends Section 49.226, Water Code, as follows:

Section 49.226. New heading: SALE OR EXCHANGE OR REAL OR PERSONAL PROPERTY. Clarifies that a district may sell any real property of the district and that the procedures for selling real property are provided by Section 49.226.

SECTION 15. Amends Chapter 49H, Water Code, by adding Section 49.234, as follows:

Section 49.234. SEWER CONNECTIONS. Authorizes a district to provide for a sanitary sewer system and require property owners to connect to the sanitary sewer system. Prohibits a district from requiring a property owner who has installed an on-site wastewater holding or treatment facility prior to the creation of the district to connect to the district's sewer system, unless certain conditions exist.

SECTION 16. Amends Section 49.271(c), Water Code, to clarify that the payment, performance, and bid bonding requirements of Section 49.271 do not apply to a contract for the purchase of equipment, materials, or machinery not otherwise incorporated into a construction project.

SECTION 17. Amends Sections 49.273(i) and (j), Water Code, as follows:

(i) Authorize the board of directors of a district to approve change orders, if changes in plans or specifications are necessary after the performance of the contract is begun, or if it is necessary to decrease or increase the quantity of the work to be performed or of the materials, equipment, or supplies to be furnished. Prohibits the original contract price from being increased by more than 10 percent due to change orders.

(j) Provides that a board of directors of a district is not required to advertise or seek competitive bids for the repair of district facilities if the scope or extent of the repair work cannot be readily ascertained or if the nature of the repair work does not readily lend itself to competitive bidding.

SECTION 18. Amends Chapter 49I, Water Code, by adding Section 49.279, as follows:

Section 49.279. PREVAILING WAGE RATES. Authorizes a district to establish its prevailing wage rate for public works by adopting the prevailing wage rate of one of the municipalities or the county in which the district is located or, if the county in which the district is located has not adopted a prevailing wage rate, the prevailing wage rate of a county adjacent to the county in which the district is located.

SECTION 19. Amends Section 49.302(b), Water Code, to require that a petition requesting annexation of territory into a district be signed by a majority in value of the owners of land in the annexed territory as shown by the tax rolls of the central appraisal district of the county.

SECTION 20. Amends Section 49.304(a), Water Code, to clarify references to Section 49.304 relating to excluding land from a district.

SECTION 21. Amends Chapter 49J, Water Code, by adding Section 49.315 as follows:

Section 49.315. ADDING AND EXCLUDING LAND BEFORE CONFIRMATION. Authorizes a district to add or exclude land after a district is created and before a confirmation election is held.

SECTION 22. Amends Section 49.327, Water Code, to provide that Title 6, Property Code, relating to unclaimed property, does not apply to any personal property held by a district that has not been dissolved by order of the Texas Natural Resources Conservation Commission (commission).

SECTION 23. Amends Section 49.351, Water Code, by amending Subsections (a)-(c) and (g)-(j) and adding Subsection (l), as follows:

(a) Authorizes a district providing potable water or sewer service to household users to issue bonds or impose a mandatory fee, with voter approval, to finance fire protection services.

(b) Clarifies that a district's plan to provide fire protection services may include the joint funding and operation of a fire department and that a district may purchase land for such purposes.

(c) Clarifies that a district may issue bonds for financing a fire plan.

(g) Specifies the required contents of a fire plan for a district proposing to act jointly with another district to provide fire protection services and authorizes a district to include a fire plan in a plan or report submitted to the TNRCC for the creation of a district.

(h) Eliminates the requirement that the TNRCC hold a public hearing on a fire plan prior to its approval or disapproval and provides that a plan approved by the TNRCC as part of the creation of a district does not require further TNRCC approval unless the district materially alters the plan.

(i) Provides that the qualified voters of the district may approve the imposition of a mandatory fee for financing a fire plan and that an election to approve a fire plan may be held in conjunction with a confirmation election.

(j) Deletes existing text which prohibits funds of the district from being used to establish a fire department, to enter into joint operation of a fire department, or to contract for fire fighting services without the approval of a plan by the electors.

(l) Authorizes a district providing potable water or sewer service to household users to collect from its customers as part of its billing process a voluntary contribution on behalf of organizations providing fire-fighting activities to the district.

SECTION 24. Amends Chapter 49, Water Code, by adding Subchapter N, as follows:

SUBCHAPTER N. RECREATIONAL FACILITIES

Sec. 49.461. POLICY AND PURPOSE. Provides that it is a policy of the state to encourage persons in water districts to provide parks and recreational facilities.

Sec. 49.462. DEFINITIONS. Defines "recreational facilities."

Sec. 49.463. AUTHORIZATION OF RECREATIONAL FACILITIES. Provides that a district is created for the purpose of developing and maintaining recreational facilities for the people of the district.

Sec. 49.464. ACQUISITION OF AND PAYMENT FOR RECREATIONAL FACILITIES. Prohibits a district from issuing bonds supported by ad valorem taxes to pay for the development and maintenance of recreational facilities. Authorizes a district to charge fees directly to the users of recreational facilities and to water and wastewater customers of the district to pay for the development and maintenance of recreational facilities.

Sec. 49.465. STANDARDS. Authorizes the board of directors of a district to by rule establish standards for the recreational facilities of the district.

SECTION 25. Amends Section 51.013(a), Water Code, to require that a petition requesting creation of a water control and improvement district (WCID) be signed by a majority of the persons who hold title to land in the proposed WCID which represents a total value of more than 50 percent of the value of all the land in the proposed WCID as indicated by the tax rolls of the central appraisal district.

SECTION 26. Amends Chapter 51D, Water Code, by adding Section 51.122, to authorize a WCI district to adopt and enforce reasonable rules and regulations regarding WCID services and facilities.

SECTION 27. Amends Chapter 51, Water Code, by adding Subchapter E, to provide that a person who violates a regulation adopted by a WCID commits a Class C misdemeanor.

SECTION 28. Amends Section 53.021, to eliminate the requirement that the tax assessor and collector of a fresh water supply district be elected.

SECTION 29. Amends Section 54.014, Water Code, to require that a petition requesting the creation of a municipal utility district (MUD) be signed by a majority in value of the holders of title of the land within the proposed MUD, as indicated by the tax rolls of the central appraisal district.

SECTION 30. Amends Section 54.236, Water Code, to authorize a MUD to purchase, install, operate and maintain street lighting or security lighting within public utility easements or public rights-of-way within the boundaries of the MUD. Eliminates the requirement that such street or security lighting facilities must have been constructed by an owner or developer of property and must have been required by a city as a condition to the city granting its consent to the creation of the MUD.

SECTION 31. Amends Section 54.772(1), Water Code, to define “recreational facilities.”

SECTION 32. Amends Section 54.774(a), Water Code, to prohibit a MUD from issuing bonds supported by ad valorem taxes to pay for the development and maintenance of recreational facilities.

SECTION 33. Amends Section 57.092(a), Water Code, to clarify that the works and improvements of a levee improvement district may be located outside the boundaries of the district.

SECTION 34. Amends Chapter 57D, Water Code, by adding Section 57.093, to authorize a levee improvement district to adopt and enforce reasonable rules and regulations regarding certain services and facilities.

SECTION 35. Amends Chapter 402Z, Local Government Code, by adding Section 402.908, to provide that a municipality, without an election, may sell to a water district operating under the authority of Section 59, Article XVI, Texas Constitution, a water or sewer system owned by the municipality.

SECTION 36. Repealer: Section 53.024 (relating to the form of the ballot for an election of a fresh water supply district), Water Code.

SECTION 37. Repealer: Sections 57.152 (Permission to Make Survey) and 57.153 (Authority to Enter Land), Water Code.

SECTION 38. (a) DEFINITION. Defines “district” in this section.

(b) VALIDATION. Provides that the following are validated and confirmed in all respects:

- the creation of a conservation and reclamation district and all proceedings related thereto; and
- any act or proceeding of a conservation and reclamation district, including elections, not excepted in this Act, taken two years prior to the effective date of this Act, is validated as of the date on which it occurred.

(c) APPLICABILITY. Provides that this section does not apply to an act, proceeding, director, other official, bond, or other obligation the validity of which or of whom is the subject of litigation that is pending on the effective date of this Act. Provides that this section does not validate any governmental act or proceeding that, under the law of this state at the time the act or proceeding occurred, was a misdemeanor or a felony.

SECTION 39. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

SECTIONS 1 - 7. No change.

SECTION 8. Differs from the original by deleting previously proposed text regarding wire transfers to an account not in the name of certain districts.

SECTIONS 9 - 12. No change.

SECTION 13. Differs from the original by deleting previously proposed new text of Subsection (g), regarding the issuance of bonds, notes, or other obligations by certain districts or a water supply corporation, and reletters previously proposed new text of Subsection (h) as Subsection (g).

SECTION 14. No change.

SECTION 15. Differs from the original by deleting previously proposed new text of Subsection (b), regarding penalties for property owners within certain districts who do not connect to the district provided sewer system, and inserting a new Subsection (b).

SECTIONS 16 - 33. No change.

SECTION 34. Differs from the original by adding to the list of certain matters over which the levee improvement district is authorized to adopt and enforce reasonable rules and regulations.

SECTIONS 35 - 36. No change.

Adds new SECTIONS 37 and 38 and rennumbers previously proposed SECTION 37 as SECTION 39 with no change.