

BILL ANALYSIS

Senate Research Center

H.B. 1644
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Natural Resources
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current Texas law, under Section 49.152, Water Code, provides for bonds issued by municipal utility districts (MUDs) to be spent by them; however, Section 54.502 states that bond money is only to be used for groundwater district (district) works.

There are a number of proposed development projects pending in this state in which a MUD or water control improvement district (WCID) has been created within the Certificate of Convenience and Necessity (CCN) area of another retail public entity. In many of these proposed developments, the existing retail service provider is not willing to release its CCN rights to the subject property. A letter opinion issued by the attorney general's office states that a MUD does not have the authority to issue bonds to finance facilities or pay costs that will be conveyed to or owned by a third party CCN holder.

H.B. 901 clarifies that WCIDs and MUDs have the authority to convey facilities to any other retail public utility and otherwise finance costs incurred by another retail public utility for purposes of making service available in the districts just as they are currently authorized to do with a municipal utility under provisions in the Local Government Code.

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 Subchapter D, Chapter 51, Water Code, by adding Section 51.150, as follows:

Sec. 51.150. **CONTRACTS WITH OTHER DISTRICTS OR WATER SUPPLY CORPORATIONS.** (a) Defines "authorized water district."

(b) Authorizes a water control and improvement district (district) to enter into a contract with an authorized water district or a water supply corporation that authorizes the district to acquire, through the issuance of debt or other means, and convey to the authorized water district or water supply corporation all or part of a water supply, treatment, or distribution systems, a sanitary sewage collection or treatment system, or works or improvements necessary for drainage of land in the district. Authorizes the contract to serve certain functions.

(c) Authorizes the contract entered into under Subsection (b) to allow the authorized water district or water supply corporation to purchase the water, sewer, or drainage system from that district through periodic payments to the district in amounts that, combined with the net income of the district, are sufficient for the district to pay the principal of and interest on any bonds of the district. Authorizes the contract to provide that the payments due under this subsection are payable through specific funds.

(d) Authorizes the contract to allow the authorized water district or water supply corporation to operate the water, sewer, or drainage system conveyed by the district under Subsection (b).

(e) Authorizes the contract to require the district to make available all to the authorized water district or water supply corporation or part of the raw or treated water to be used for the provision of services within the district.

(f) Authorizes the authorized water district or water supply corporation to pay the district to provide water, sewer, or drainage services to residents of the authorized water district or customers of the water supply corporation, if the contract provides for the water, sewer, or drainage system to be conveyed to the authorized water district or water supply corporation on or after the completion of construction.

(g) Authorizes the contract to allow the district to convey to the authorized water district or water supply corporation at no cost a water, sewer, or drainage system and require the authorized water district or water supply corporation to use all or part of those systems to provide retail service to customers within the district in accordance with the law of this state and any certificate of convenience and necessity of the authorized water district or water supply corporation.

(h) Requires a contract under this section to be approved by a majority vote of the governing bodies of the district and the authorized water district or water supply corporation. Requires the district or the authorized water district to call an election, if Section 52 (Counties, Cities or other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III, or Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution, requires that qualified voters of the district approve the imposition of a tax by the district or the authorized water district.

SECTION 2. Amends Section 51.402, Water Code, to authorize a water control and improvement district to incur debt evidenced by the issuance of bonds for any purpose authorized by this chapter, Chapter 49 (Provisions Applicable to All Districts), or other applicable laws, including debt necessary to provide improvements and maintenance of improvements to achieve the purposes for which the district was created.

SECTION 3. Amends Subchapter D, Chapter 54, Water Code, by adding Section 54.2351, as follows:

Sec. 54.2351. **CONTRACTS WITH OTHER DISTRICTS OR WATER SUPPLY CORPORATIONS.** (a) Defines "authorized water district."

(b) Authorizes a water control and improvement district to enter into a contract with an authorized water district or a water supply corporation that authorizes the district to acquire, through the issuance of debt or other means, and convey to the authorized water district or water supply corporation all or part of a water supply, treatment, or distribution systems, a sanitary sewage collection or treatment system, or works or improvements necessary for drainage of land in the district. Authorizes the contract to serve certain functions.

(c) Authorizes the contract entered into under Subsection (b) to allow the authorized water district or water supply corporation to purchase the water, sewer, or drainage system from that district through periodic payments to the district in amounts that, combined with the net income of the district, are sufficient for the district to pay the principal of and interest on any bonds of the district. Authorizes the contract to provide that the payments due under this subsection are payable through specific funds.

(d) Authorizes the contract to allow the authorized water district or water supply corporation to operate the water, sewer, or drainage system conveyed by the district under Subsection (b).

(e) Authorizes the contract to require the district to make available all or part of the raw or treated water to be used for the provision of services within the district to the authorized water district or water supply corporation.

(f) Authorizes the authorized water district or water supply corporation to pay the district to provide water, sewer, or drainage services to residents of the authorized water district or customers of the water supply corporation, if the contract provides for the water, sewer, or drainage system to be conveyed to the authorized water district or water supply corporation on or after the completion of construction.

(g) Authorizes the contract to allow the district to convey to the authorized water district or water supply corporation at no cost a water, sewer, or drainage system and require the authorized water district or water supply corporation to use all or part of those systems to provide retail service to customers within the district in accordance with the law of this state and any certificate of convenience and necessity of the authorized water district or water supply corporation.

(h) Requires a contract under this section to be approved by a majority vote of the governing bodies of the district and the authorized water district or water supply corporation. Requires the district or the authorized water district to call an election, if Section 52, Article III, or Section 59, Article XVI, Texas Constitution, requires that qualified voters of the district approve the imposition of a tax by the district or the authorized water district.

SECTION 4. Amends Section 54.501, Water Code, to authorize the district to issue bonds for any purpose authorized by this chapter, Chapter 49, or other applicable laws, including additional specific purposes.

SECTION 5. Amends Section 49.218(a), Water Code, to authorize a district or water supply corporation to acquire an interest in land, materials, waste grounds, easements, rights-of-way, equipment, contract or permit rights or interests, including a certificate of convenience and necessity, contractual rights to use capacity in facilities and to acquire facilities and certain other properties.

SECTION 6. Makes application of this Act prospective.

SECTION 7. (a) Provides that any contract entered into by a municipal utility district or a water control and improvement district before the effective date of this Act that provides that the district will acquire and convey all or part of a water supply, treatment, or distribution system, a sanitary sewage collection or treatment system, or works or improvements necessary for drainage of land in the district, to a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, or a water supply corporation, is validated in all respects as if the contract were entered into as authorized by law.

(b) Provides that this section does not apply to any contract that is involved in litigation, if the litigation results in the contract being held invalid by a final judgment of a court of competent jurisdiction or has been held invalid by a final judgment of a court of competent jurisdiction on the effective date of this Act.

SECTION 8. Effective date: upon passage or September 1, 2005.