

## BILL ANALYSIS

S.B. 1876  
By: Brimer  
Natural Resources  
Committee Report (Amended)

### BACKGROUND AND PURPOSE

In 1955, the 54<sup>th</sup> Texas Legislature passed legislation that created the Benbrook Water and Sewer Authority ("Authority") as a conservation and reclamation district. In the 50 years since its creation, there have been numerous changes in the general laws of the state related to the powers, duties, administration, governance, and functions of the Authority.

The purpose of S.B. 1876 is to update the Authority's enabling legislation, as amended, to conform to changes in general law; to clarify the powers, duties, administration, governance, and functions of the Authority in light of such general law changes; to change the name of the Authority; and to validate certain acts of the Authority due to the various changes in general law over the past 55 years.

### 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

SECTION 1. *Amends Section 1, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, Vernon's Texas Civil Statutes), as follows:*

Renames the Benbrook Water and Sewer Authority (now to be known as the Benbrook Water Authority).

SECTION 2. *Amends Sections 3(b), (c), and (f), Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, Vernon's Texas Civil Statutes), as follows:*

Changes "as" to "an" in Section 3(b) of the Authority's enabling legislation.

Changes the provisions of Section 3(c) of the Authority's enabling legislation to specify that regular elections of directors since 1993 must be held on a uniform date and are governed by Chapters 49 and 51, Water Code. Provides that only qualified voters residing in the Authority are entitled to vote at an election of directors. Specifies that three directors were to be elected in 1997, and that the three candidates receiving the highest number of votes were to be elected to three year terms. Specifies that at the directors election of 2000 and all subsequent elections at which three directors are to be elected, the three candidates receiving the highest number of votes shall be elected for four-year terms. Specifies that in the 1998 directors election and every subsequent election at which two directors are elected, the two candidates receiving the highest number of votes shall be elected for four year terms.

Changes the Authority's enabling legislation with respect to fees of office and reimbursement of expenses to be consistent with general law under Section 49.060, Water Code, but allows the Authority's Board of Directors

to establish by resolution a lower fee of office than authorized by Section 49.060.

SECTION 3. *Amends Section 5, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, Vernon's Texas Civil Statutes), as follows:*

Amends the Authority's enabling legislation to provide that the Authority may regulate groundwater wells in accordance with Section 36.116(a), Water Code. Provides that the Authority may require a permit for installing or operating a well in the Authority's boundaries. Provides that the Authority may not unreasonably withhold a permit if an applicant demonstrates: that the proposed well will not unreasonably affect groundwater resources or use of groundwater by the Authority or other well owners; that the applicant agrees to protect groundwater quality; that construction and operation of the well will not threaten groundwater supplies of the Authority; and that the application complies with all well-spacing and production requirements of the Authority. Specifies that the Authority may provide for waste service in order to preserve and protect the purity of the waters of this state and of the Authority, and conserve and reclaim those waters for beneficial use by inhabitants of the Authority. Authorizes the Authority to adopt rules to implement the section.

SECTION 4. *Amends Section 6, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, Vernon's Texas Civil Statutes), as follows:*

Amends the Authority's enabling legislation to update the general law reference to its eminent domain authority.

SECTION 5. *Amends Section 8(b), Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, Vernon's Texas Civil Statutes), as follows:*

Amends the Authority's enabling legislation to delete a provision limiting bond interest costs and providing for its calculation.

SECTION 6. *Amends Section 13, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, Vernon's Texas Civil Statutes), as follows:*

Amends the Authority's enabling legislation to provide that the Authority may enter into interlocal agreements under Chapter 791, Government Code.

SECTION 7. *Amends Section 17, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, Vernon's Texas Civil Statutes), as follows:*

Amends the Authority's enabling legislation to specify that its powers include those authorized in Chapters 49 and 51, Water Code, and that where those chapters conflict, Chapter 51 controls. Provides that Chapter 36, Water Code does not apply to the Authority, except as provided by its enabling legislation.

SECTION 8. *Repeals Sections 3(d) and 7, Chapter 123, Acts of the 54th Legislature, Regular Session, 1955 (Article 8280-163, Vernon's Texas Civil Statutes), as follows:*

Section 3(d) is a petition provision for candidates for director, which is no longer consistent with general law.

Section 7 is a provision regarding contract bidding requirements, which is no longer consistent with general law.

SECTION 9. Provides that any act taken by or on behalf of the Authority before the bill's effective date is validated, and that a governmental act or proceeding occurring after one validated by this bill may not be held invalid on the ground that the prior act or proceeding, in the absence of this bill, was invalid. However, the validation does not apply to any matter that, on the bill's effective date: is involved in litigation and ultimately held invalid by a court; or has been held invalid by a final judgment of the court.

SECTION 10. States that publication, notice, and recommendation requirements have been met.

SECTION 11. Effective Date.

### **EFFECTIVE DATE**

Upon passage or September 1, 2005.

### **EXPLANATION OF AMENDMENTS**

Amends SECTION 3 of the bill (page 4, lines 12 to 18) (Section 5 of the Benbrook Water and Sewer Authority's ("BWSA") enabling legislation) by deleting language authorizing the BWSA to regulate groundwater wells in the manner provided by Section 36.116(a), Water Code, and by substituting in its place language authorizing the BWSA to regulate groundwater wells in the manner in which the City of Benbrook, Texas, could regulate such wells under its home-rule authority or as otherwise provided by its enabling legislation.