

AN ACT

relating to certain contracts, certificates of convenience and necessity, and municipal annexation of certain water-related districts or corporations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 51, Water Code, is amended by adding Section 51.150 to read as follows:

Sec. 51.150. CONTRACTS WITH OTHER DISTRICTS OR WATER SUPPLY CORPORATIONS. (a) In this section, "authorized water district" means a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

(b) A district may 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 system, a sanitary sewage collection or treatment system, or works or improvements necessary for drainage of land in the district. The contract may:

(1) permit the district to rehabilitate, repair, maintain, improve, enlarge, or extend any existing facilities to be conveyed to the authorized water district or water supply corporation; or

(2) require the district to pay impact fees or other

1 fees to the authorized water district or water supply corporation
2 for capacity or service in facilities of the authorized water
3 district or water supply corporation.

4 (c) The contract entered into under Subsection (b) may
5 authorize the authorized water district or water supply corporation
6 to purchase the water, sewer, or drainage system from the district
7 through periodic payments to the district in amounts that, combined
8 with the net income of the district, are sufficient for the district
9 to pay the principal of and interest on any bonds of the district.

10 The contract may provide that the payments due under this
11 subsection:

12 (1) are payable from and secured by a pledge of all or
13 part of the revenues of the water, sewer, or drainage system;

14 (2) are payable from taxes to be imposed by the
15 authorized water district; or

16 (3) are payable from a combination of the revenues and
17 taxes described by Subdivisions (1) and (2).

18 (d) The contract may authorize the authorized water
19 district or water supply corporation to operate the water, sewer,
20 or drainage system conveyed by the district under Subsection (b).

21 (e) The contract may require the district to make available
22 to the authorized water district or water supply corporation all or
23 part of the raw or treated water to be used for the provision of
24 services within the district.

25 (f) If the contract provides for the water, sewer, or
26 drainage system to be conveyed to the authorized water district or
27 water supply corporation on or after the completion of

1 construction, the authorized water district or water supply
2 corporation may pay the district to provide water, sewer, or
3 drainage services to residents of the authorized water district or
4 customers of the water supply corporation.

5 (g) The contract may authorize the district to convey to the
6 authorized water district or water supply corporation at no cost a
7 water, sewer, or drainage system and require the authorized water
8 district or water supply corporation to use all or part of those
9 systems to provide retail service to customers within the district
10 in accordance with the laws of this state and any certificate of
11 convenience and necessity of the authorized water district or water
12 supply corporation.

13 (h) A contract under this section must be approved by a
14 majority vote of the governing bodies of the district and the
15 authorized water district or water supply corporation. If Section
16 52, Article III, or Section 59, Article XVI, Texas Constitution,
17 requires that qualified voters of the district approve the
18 imposition of a tax by the district or the authorized water
19 district, the district or the authorized water district shall call
20 an election for that purpose.

21 SECTION 2. Section 51.402, Water Code, is amended to read as
22 follows:

23 Sec. 51.402. AUTHORITY TO ISSUE BONDS OF DISTRICTS
24 OPERATING UNDER ARTICLE XVI, SECTION 59, OF THE TEXAS
25 CONSTITUTION. A district operating under Article XVI, Section 59,
26 of the Texas Constitution, may incur debt evidenced by the issuance
27 of bonds for any purpose authorized by this chapter, Chapter 49, or

1 other applicable laws, including debt which is necessary to provide
2 improvements and maintenance of improvements to achieve the
3 purposes for which the district was created.

4 SECTION 3. Subchapter L, Chapter 51, Water Code, is amended
5 by adding Section 51.537 to read as follows:

6 Sec. 51.537. MUNICIPALITY'S AUTHORITY REGARDING DEFINED
7 AREA. (a) This section applies only to a municipality any portion
8 of which is located in a county with a population of more than
9 800,000 and less than 1.3 million.

10 (b) A municipality may not annex a part of a defined area in
11 a district that has adopted a plan for the defined area under this
12 subchapter unless:

13 (1) 90 percent or more of all facilities and
14 infrastructure described by the plan has been installed and
15 completed; and

16 (2) the municipality:

17 (A) annexes all of the defined area that is
18 within the municipality's extraterritorial jurisdiction; and

19 (B) assumes the pro rata share of the bonded
20 indebtedness of the annexed area.

21 (c) After the annexation occurs:

22 (1) the annexed area is not eligible to be a defined
23 area under this subchapter; and

24 (2) the district may not impose in the annexed area a
25 tax authorized for a defined area under this subchapter.

26 SECTION 4. Subchapter D, Chapter 54, Water Code, is amended
27 by adding Section 54.2351 to read as follows:

1 Sec. 54.2351. CONTRACTS WITH OTHER DISTRICTS OR WATER
2 SUPPLY CORPORATIONS. (a) In this section, "authorized water
3 district" means a district created under Section 52(b)(1) or (2),
4 Article III, or Section 59, Article XVI, Texas Constitution.

5 (b) A district may enter into a contract with an authorized
6 water district or a water supply corporation that authorizes the
7 district to acquire, through the issuance of debt or other means,
8 and convey to the authorized water district or water supply
9 corporation all or part of a water supply, treatment, or
10 distribution system, a sanitary sewage collection or treatment
11 system, or works or improvements necessary for drainage of land in
12 the district. The contract may:

13 (1) permit the district to rehabilitate, repair,
14 maintain, improve, enlarge, or extend any existing facilities to be
15 conveyed to the authorized water district or water supply
16 corporation; or

17 (2) require the district to pay impact fees or other
18 fees to the authorized water district or water supply corporation
19 for capacity or service in facilities of the authorized water
20 district or water supply corporation.

21 (c) The contract entered into under Subsection (b) may
22 authorize the authorized water district or water supply corporation
23 to purchase the water, sewer, or drainage system from the district
24 through periodic payments to the district in amounts that, combined
25 with the net income of the district, are sufficient for the district
26 to pay the principal of and interest on any bonds of the district.
27 The contract may provide that the payments due under this

1 subsection:

2 (1) are payable from and secured by a pledge of all or
3 part of the revenues of the water, sewer, or drainage system;

4 (2) are payable from taxes to be imposed by the
5 authorized water district; or

6 (3) are payable from a combination of the revenues and
7 taxes described by Subdivisions (1) and (2).

8 (d) The contract may authorize the authorized water
9 district or water supply corporation to operate the water, sewer,
10 or drainage system conveyed by the district under Subsection (b).

11 (e) The contract may require the district to make available
12 to the authorized water district or water supply corporation all or
13 part of the raw or treated water to be used for the provision of
14 services within the district.

15 (f) If the contract provides for the water, sewer, or
16 drainage system to be conveyed to the authorized water district or
17 water supply corporation on or after the completion of
18 construction, the authorized water district or water supply
19 corporation may pay the district to provide water, sewer, or
20 drainage services to residents of the authorized water district or
21 customers of the water supply corporation.

22 (g) The contract may authorize the district to convey to the
23 authorized water district or water supply corporation at no cost a
24 water, sewer, or drainage system and require the authorized water
25 district or water supply corporation to use all or part of those
26 systems to provide retail service to customers within the district
27 in accordance with the laws of this state and any certificate of

1 convenience and necessity of the authorized water district or water
2 supply corporation.

3 (h) A contract under this section must be approved by a
4 majority vote of the governing bodies of the district and the
5 authorized water district or water supply corporation. If Section
6 52, Article III, or Section 59, Article XVI, Texas Constitution,
7 requires that qualified voters of the district approve the
8 imposition of a tax by the district or the authorized water
9 district, the district or the authorized water district shall call
10 an election for that purpose.

11 SECTION 5. Section 54.501, Water Code, is amended to read as
12 follows:

13 Sec. 54.501. ISSUANCE OF BONDS. The district may issue its
14 bonds for any purpose authorized by this chapter, Chapter 49, or
15 other applicable laws, including the purpose of purchasing,
16 constructing, acquiring, owning, operating, repairing, improving,
17 or extending any district works, improvements, facilities, plants,
18 equipment, and appliances needed to accomplish the purposes set
19 forth in Section 54.012 [~~of this code~~] for which a district shall be
20 created, including works, improvements, facilities, plants,
21 equipment, and appliances needed to provide a waterworks system,
22 sanitary sewer system, storm sewer system, and solid waste disposal
23 system.

24 SECTION 6. Subchapter J, Chapter 54, Water Code, is amended
25 by adding Section 54.813 to read as follows:

26 Sec. 54.813. MUNICIPALITY'S AUTHORITY REGARDING DEFINED
27 AREA. (a) This section applies only to a municipality any portion

1 of which is located in a county with a population of more than
2 800,000 and less than 1.3 million.

3 (b) A municipality may not annex a part of a defined area in
4 a district that has adopted a plan for the defined area under this
5 subchapter unless:

6 (1) 90 percent or more of all facilities and
7 infrastructure described by the plan has been installed and
8 completed; and

9 (2) the municipality:

10 (A) annexes all of the defined area that is
11 within the municipality's extraterritorial jurisdiction; and

12 (B) assumes the pro rata share of the bonded
13 indebtedness of the annexed area.

14 (c) After the annexation occurs:

15 (1) the annexed area is not eligible to be a defined
16 area under this subchapter; and

17 (2) the district may not impose in the annexed area a
18 tax authorized for a defined area under this subchapter.

19 SECTION 7. Section 49.218(a), Water Code, is amended to
20 read as follows:

21 (a) A district or water supply corporation may acquire an
22 interest in land, materials, waste grounds, easements,
23 rights-of-way, equipment, contract or permit rights or interests,
24 including a certificate of convenience and necessity, contractual
25 rights to use capacity in facilities and to acquire facilities and
26 other property, real or personal, considered necessary for the
27 purpose of accomplishing any one or more of the district's or water

1 supply corporation's purposes provided in this code or in any other
2 law. A district may utilize proceeds from the sale and issuance of
3 its bonds, notes, or other obligations to acquire the items
4 authorized by this section.

5 SECTION 8. Sections 51.537 and 54.813, Water Code, as added
6 by this Act, apply only to the annexation of an area:

7 (1) that is not included in a municipal annexation
8 plan under Section 43.052, Local Government Code, before the
9 effective date of this Act; and

10 (2) for which the first statutorily required hearing
11 on the annexation is held on or after the effective date of this
12 Act.

13 SECTION 9. Sections 51.537(c) and 54.813(c), Water Code, as
14 added by this Act, apply only to taxes imposed for a tax year
15 beginning on or after January 1, 2006.

16 SECTION 10. The change in law made by this Act applies only
17 to a contract between a water control and improvement district or a
18 municipal utility district and another water district or water
19 supply corporation entered into on or after the effective date of
20 this Act. A contract entered into before the effective date of this
21 Act is covered by the law in effect on the date the contract was
22 entered into, and the former law is continued in effect for that
23 purpose.

24 SECTION 11. (a) Any contract entered into by a municipal
25 utility district or a water control and improvement district before
26 the effective date of this Act that provides that the district will
27 acquire and convey all or part of a water supply, treatment, or

1 distribution system, a sanitary sewage collection or treatment
2 system, or works or improvements necessary for drainage of land in
3 the district, to a district created under Section 52(b)(1) or (2),
4 Article III, or Section 59, Article XVI, Texas Constitution, or a
5 water supply corporation, is validated in all respects as if the
6 contract were entered into as authorized by law.

7 (b) This section does not apply to any contract that on the
8 effective date of this Act:

9 (1) is involved in litigation if the litigation
10 ultimately results in the contract being held invalid by a final
11 judgment of a court of competent jurisdiction; or

12 (2) has been held invalid by a final judgment of a
13 court of competent jurisdiction.

14 SECTION 12. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 1644 was passed by the House on May 10, 2005, by the following vote: Yeas 142, Nays 0, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1644 on May 26, 2005, by the following vote: Yeas 140, Nays 4, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1644 was passed by the Senate, with amendments, on May 21, 2005, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor