

By: Morrison

H.B. No. 1749

A BILL TO BE ENTITLED

AN ACT

relating to the authority of political subdivisions to negotiate contracts for electricity.

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

SECTION 1. Chapter 304, Local Government Code, is amended by adding Section 304.0015 to read as follows:

Sec. 304.0015. CONTRACT TERMS; AUTHORITY TO DELEGATE. (a)

A contract between a political subdivision and a political subdivision corporation described by Section 304.001 for the purchase of electricity, in whole or in part, authorized under Subchapter A, Chapter 271:

(1) may be for a term not to exceed 30 years;

(2) is a security agreement within the meaning of Section 1208.001, Government Code; and

(3) is exempt from Chapter 252 or 262, as appropriate, or other law that establishes a competitive purchasing process that, otherwise, would apply to the contract.

(b) In authorizing a political subdivision corporation to negotiate a contract, the governing body of each political subdivision that forms the political subdivision corporation may:

(1) authorize the maximum amount of any payment and the maximum rate of interest under the contract;

(2) authorize the maximum amount of electricity to be purchased under the contract; and

1           (3) delegate to any officer or employee of the  
2 political subdivision the authority to:

3                   (A) determine the payment terms of the contract;

4                   (B) determine the specific amount of electricity  
5 purchased; and

6                   (C) complete and execute the contract.

7           (c) In exercising the authority delegated under Subsection  
8 (b)(3), the officer or employee may establish the terms to complete  
9 and execute the contract, including:

10                   (1) the form of the contract;

11                   (2) the payment terms of the contract, including the  
12 price paid, payment amounts, and interest rate under the contract;

13                   (3) the relevant contract dates, including payment  
14 dates;

15                   (4) the redemption or prepayment provisions; and

16                   (5) any other details relating to completing and  
17 executing the contract specified by the governing body of the  
18 political subdivision in a proceeding authorizing the contract.

19           (d) A finding or determination made by an officer or  
20 employee exercising the authority delegated under Subsection  
21 (b)(3) has the same force and effect as a finding or determination  
22 made by the governing body of the political subdivision.

23           (e) A political subdivision that enters into a contract  
24 under this section has the same contracting authority as a  
25 municipality contracting with a utility system under Section  
26 1502.002, Government Code.

27           (f) A political subdivision that enters into a contract

1 under this section is not required to submit the contract to a  
2 public official of this state, including the attorney general, for  
3 review and approval. A political subdivision may submit the  
4 contract to a public official for review and approval if authorized  
5 by law. A contract under this section may not be contested after  
6 the contract is executed and delivered except for fraud or forgery.

7 SECTION 2. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2007.