

By: Kuempel

H.B. No. 3603

A BILL TO BE ENTITLED

AN ACT

relating to municipal power agencies.

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

SECTION 1. Section 163.051, Utilities Code, amended to read as follows:

Sec. 163.051. DEFINITIONS. In this subchapter and Subchapter E:

(1) "Agency" means a municipal power agency created under this subchapter.

(2) "Bond" includes a note, but does not include a nonnegotiable purchase money note issued under Section 163.067.

(3) "Concurrent ordinance" means an ordinance or order adopted under this subchapter by two or more public entities that relates to the creation or recreation of a municipal power agency.

(4) "Obligations" means revenue bonds or notes.

SECTION 2. Section 163.054, Utilities Code, amended to read as follows.

Sec. 163.054. CREATION OF AGENCY. (a) Public entities may create an agency by concurrent ordinances ~~subject to voter approval.~~

(b) ~~A public entity may join in the creation of an agency under this subchapter only if on May 8, 1975, and at the time the concurrent ordinance is adopted, the entity was engaged in the authorized generation of electric energy for the sale to the~~

1 ~~public. This subsection does not prohibit a public entity from~~
2 ~~disposing any electric generating capabilities after creation of~~
3 ~~the agency.~~

4 ~~(c)~~ (b) An agency is a:

- 5 (1) separate municipal corporation;
6 (2) political subdivision of this state; and
7 (3) political entity and corporate body.

8 ~~(d)~~ (c) An agency may not impose a tax but has all the other
9 powers relating to municipally owned utilities and provided by law
10 to a municipality that owns a public utility.

11 **SECTION 3.** Section 163.055, Utilities Code, is amended to
12 read as follows:

13 Sec. 163.055. RE-CREATION OF AGENCY. (a) The public
14 entities that create an agency may by concurrent ordinances
15 re-create the agency by adding or deleting, or both, a public
16 entity.

17 (b) The public entities may not re-create an agency if the
18 re-creation will impair an agency obligation.

19 ~~(c) Re-creation by adding a public entity is subject to~~
20 ~~voter approval in accordance with Section 163.058.~~

21 **SECTION 4.** Section 163.058, Utilities Code, is amended to
22 read as follows:

23 Sec. 163.058. ELECTION. (a) ~~An agency may not be created~~
24 ~~unless the creation~~ If before the date tentatively set for passage
25 of a concurrent ordinance creating an agency or if before such
26 adoption, the secretary or clerk of the public entity receives a
27 petition signed by at least five percent (5%) of the qualified

1 voters of the public entity protesting the adoption of the
2 concurrent ordinance, the public entity may not adopt the
3 concurrent ordinance unless the creation is approved by a majority
4 of the qualified voters of each public entity creating the agency at
5 an election called and held for that purpose.

6 (b) ~~An agency may not be re-created by addition of a public~~
7 ~~entity~~ If before the date tentatively set for passage of a
8 concurrent ordinance recreating an agency or if before such
9 adoption, the secretary or clerk of the public entity receives a
10 petition signed by at least five percent (5%) of the qualified
11 voters of the public entity protesting the adoption of the
12 concurrent ordinance, the public entity may not adopt the
13 concurrent ordinance unless the re-creation is approved by a
14 majority of the qualified voters of the additional public entity at
15 an election called and held for that purpose.

16 (c) Notice of an election under this section shall be given
17 in accordance with Section 1251.003, Government Code. The election
18 shall be called and held in accordance with:

- 19 (1) the Election Code;
20 (2) Chapter 1251, Government Code; and
21 (3) this subchapter.

22 **SECTION 5.** Section 163.060, Utilities Code is amended to
23 read as follows:

24 Sec. 163.060. POWERS. (a) An agency may not engage in the
25 sale of electric energy to retail customers, or in any utility
26 business other than the generation, transmission, purchase and sale
27 or exchange of electric energy for resale to:

- 1 (1) a participating public entity; or
2 (2) a private entity ~~that owns jointly with the agency~~
3 ~~an electric generating facility in this state.~~

4 (b) The agency may:

5 (1) perform any act necessary to the full exercise of
6 the agency's powers;

7 (2) enter into a contract, lease, or agreement with or
8 accept a grant or loan from a:

9 (A) department or agency of the United States;

10 (B) department, agency, or political subdivision
11 of this state; or

12 (C) public or private person;

13 (3) sell, lease, convey, or otherwise dispose of any
14 right, interest, or property the agency considers to be unnecessary
15 for the efficient maintenance or operation of its electric
16 facilities;

17 (4) use the uniform system of accounts prescribed for
18 utilities and licenses by the Federal Energy Regulatory Commission;
19 and

20 (5) adopt rules to govern the operation of the agency
21 and its employees, facilities, and service.

22 **SECTION 6.** Section 163.121, Utilities Code, amended to read
23 as follows:

24 Sec. 163.121. CREATION. An electric cooperative
25 corporation may join one or more public entities to create ~~a joint~~
26 ~~powers~~ an agency as if the corporation were also a public entity.

27 **SECTION 7.** Section 163.122, Utilities Code, amended to read

1 as follows:

2 Sec. 163.122. APPLICATION OF OPEN MEETINGS LAW. ~~A joint~~
3 ~~powers~~ An agency created under this subchapter is a governmental
4 body subject to Chapter 551, Government Code.

5 **SECTION 8.** Section 163.123, Utilities Code, amended to read
6 as follows:

7 Sec. 163.123. AUTHORITY OF PUBLIC UTILITY COMMISSION. ~~A~~
8 ~~joint powers~~ An agency created under this subchapter is:

9 (1) subject to all applicable provisions of Title 2;
10 and

11 (2) under the jurisdiction of the Public Utility
12 Commission of Texas as provided by Title 2-, to the same extent as
13 an agency created under Subchapter C or Subchapter D.

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