

## **BILL ANALYSIS**

C.S.H.B. 4735  
By: Eiland  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Coastal Water Authority was created by the state legislature in 1967 as a conservation and reclamation district. Clarifying the approval required from the City of Houston prior to obtaining additional water rights and refining the authority's park powers and electric generation powers permits the authority to maximize opportunities for parks, electric generation, and greenhouse gas projects that both complement and provide additional resources for the authority's larger task of providing surface water to regional municipalities and industries.

C.S.H.B. 4735 clarifies certain powers and limitations upon the authority and provides certain additional powers to the authority.

### **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**

C.S.H.B. 4735 amends Chapter 601, Acts of the 60th Legislature, Regular Session, 1967, to clarify that the Coastal Water Authority may develop and generate electric energy by any means, including wind turbines and hydroelectric facilities, rather than turbines or hydroelectric facilities. The bill clarifies that energy generated by the authority is required to be first made available to the authority or the City of Houston. The bill exempts a corporation created under the provisions relating to the authority from a provision requiring a local government corporation to comply with all state law related to the design and construction of projects. The bill authorizes the authority to participate in a wetland mitigation program. The bill includes in the definition of "park" for the purposes of provisions relating to the authority any area of land or interest in an area of land to be used as open space or wetlands or for reforestation or other uses that reduce, offset, or capture greenhouse gases or other emissions, or provide mitigation of other environmental impacts, provided that the use of the area of land or interest in that area is in connection with or useful for an existing or planned authority project or facility or other authorized use. The bill removes a provision from the definition of "park" that such spaces as defined will be used by the public as specified in connection with the beneficial use of the main or lateral canals to which the park is adjacent.

C.S.H.B. 4735 authorizes the authority to exercise any of its existing powers, including its parks powers, to carry out a project or activity that reduces, offsets, or captures and sequesters greenhouse gases or other emissions as provided by law. The bill authorizes the authority to contract with a private or public entity to sell or trade credits, offsets, tax credits, or other similar marketable instruments authorized by law and available to the authority attributable to any such project or activity. The bill authorizes the authority to pledge any stream of revenue from any such transaction to the issuance of bonds or notes to fund any authorized purpose of the authority. The bill authorizes the authority to contract with any other governmental entity to issue bonds or notes secured by a stream of revenue from the entity attributable to any such

project or activity. The bill authorizes the proceeds of the bonds to be used to fund any authorized purpose of the authority or any joint project with the participating governmental entity.

### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 4735 removes a provision from the original authorizing the Coastal Water Authority to transmit or distribute power and electric energy, in addition to developing or generating that power and energy. The substitute removes a provision from the original requiring the authority to secure the approval of the director of the Department of Public Works and Engineering, or its successor department, rather than the mayor and city council, of the City of Houston before acquiring any water rights. The substitute adds a provision to the original requiring any energy generated by the authority to first be made available to the authority and to the City of Houston. The substitute differs from the original by including in the definition of a "park" any area of land or interest in an area of land to be used as open space or wetlands or for reforestation or other uses that reduce, offset, or capture greenhouse gases or other emissions, or provide mitigation of other environmental impacts, provided that the use of the area of land or interest in the area of land is in connection with or useful for an existing or planned authority project or facility or other authorized use, whereas the original amends the definition of "park" to include areas to be used as open space, wetlands, reforestation or other uses that reduce, offset, or capture greenhouse gases or other emissions provided that the board of the authority finds the area of land or interest to be useful for an existing project or to serve a purpose that benefits the authority.

C.S.H.B. 4735 makes nonsubstantive changes to the original to clarify language in provisions relating to the authority's power to contract with entities and pledge certain revenue streams and in administrative provisions related to legal notice requirements.

C.S.H.B. 4735 removes provisions from the original specifying that all acts or proceedings of the authority or its board of the directors taken before the effective date of the bill are validated and confirmed in all respects and prohibiting a governmental act or proceeding occurring after an act or proceeding is validated by the bill from being held invalid on the ground that the prior act or proceeding, in the absence of the bill, was invalid. The bill removes a provision from the original specifying these two provisions do not apply to any matter that on the effective date of the bill is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction, or has been held invalid by a final judgment of such a court.