

By: Callegari

H.B. No. 3335

A BILL TO BE ENTITLED

AN ACT

relating to the powers of certain water districts.

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

SECTION 1. Section 49.101, Water Code, is amended to read as follows:

Sec. 49.101. GENERAL. (a) All elections shall be generally conducted in accordance with the Election Code except as otherwise provided for by this code.

(b) Write-in candidacies for any district office shall be governed by Subchapter C, Chapter 146, Election Code.

(c) The board may contract with a person to serve as the district's agent in the same manner as another officer or employee of the district under Section 31.123, Election Code.

(d) Sections 32.009 and 42.002, Election Code, do not apply to an election held by a district.

(e) Notwithstanding the requirements of Section 32.051, Election Code, to serve as an election judge in an election held by a district, a person must be a registered voter of the county in which the district is located.

(f) Notwithstanding Sections 61.012 and 61.013, Election Code, a district is exempt from the acquisition, lease, or use of an electronic voting system for an election if:

(1) the election is a confirmation election or an election held jointly with a confirmation election on the same date

1 and in conjunction with the confirmation election, except for an
2 election in which a federal office appears on the ballot;

3 (2) the most recently scheduled district directors
4 election was not held, as provided by Section 2.053(b), Election
5 Code; or

6 (3) fewer than 250 voters voted at the most recently
7 held district directors election.

8 (g) A district eligible for the exemption under Subsection
9 (f) must publish notice in a periodical of general circulation in an
10 area that includes the district and mail notice to each voter in the
11 district regarding the district's intention to hold an election
12 without providing a voting station that meets the requirements for
13 accessibility under 42 U.S.C. Section 15481(a)(3) on election day
14 and during the period for early voting by personal appearance. The
15 notice must provide that any voter in the district may request the
16 use of a voting station that meets those requirements to
17 accommodate voting by a person with a disability and provide
18 information on how to submit such a request. On receiving such a
19 request, the district shall comply with the request.

20 SECTION 2. Subchapter D, Chapter 49, Water Code, is amended
21 by adding Section 49.1045 to read as follows:

22 Sec. 49.1045. JOINT ELECTIONS WITH COUNTIES. (a) This
23 section applies only to a district with 10 or fewer registered
24 voters.

25 (b) A district that holds an election jointly with a county
26 in which the district is wholly or partly located may provide for a
27 certification of the voting results if the election results

1 indicate that there were more votes cast in the election than the
2 number of registered voters in the district. To certify the
3 district votes, the district may have each person whose signature
4 is on the sign-in sheet for the joint election certify the manner in
5 which the person voted in the election and that the person was a
6 qualified voter on the day of the election, and the certified votes
7 shall be used as the official election results.

8 SECTION 3. Section 49.107, Water Code, is amended by adding
9 Subsection (i) to read as follows:

10 (i) Section 375.161, Local Government Code, does not apply
11 to an impact fee, tax, or other requirement for payment for water,
12 sewer, drainage, reclamation, flood control, road, or park and
13 recreational services or improvements of a district that provides,
14 or proposes to provide, those services or improvements.

15 SECTION 4. Section 49.108, Water Code, is amended by adding
16 Subsections (g), (h), (i), and (j) to read as follows:

17 (g) Not later than the 10th day before the date an election
18 is held to authorize a contract, a substantially final form of the
19 contract must be filed in the office of the district and must be
20 open to inspection by the public. The contract is not required to
21 be attached as an exhibit to the order calling the election to
22 authorize the contract.

23 (h) A single contract may contain multiple purposes or
24 facilities authorized by one or more constitutional provisions. A
25 contract described by this subsection may be submitted for approval
26 in a single proposition at an election.

27 (i) A contract between districts for the provision of

1 facilities or services is not required to specify the maximum
2 amount of bonds or expenditures authorized under the contract if
3 the contract provides that the service area cannot be enlarged
4 without the consent of at least two-thirds of the districts that are
5 included in the service area or served by the facilities or services
6 provided for in the contract.

7 (j) A contract may generally describe the facilities to be
8 acquired or financed by the district without reference to specific
9 constitutional provisions.

10 SECTION 5. Section 49.151(c), Water Code, is amended to
11 read as follows:

12 (c) The board may allow disbursements of district money to
13 be transferred by federal reserve wire system or by electronic
14 means. The board by resolution may allow the wire or electronic
15 transfers to accounts in the name of the district or accounts not in
16 the name of the district.

17 SECTION 6. Section 49.194, Water Code, is amended by
18 amending Subsections (a) and (b) and adding Subsection (h) to read
19 as follows:

20 (a) Except as provided by Subsection (h), after [~~After~~] the
21 board has approved the audit, it shall submit a copy of the report
22 to the executive director for filing within 135 days after the close
23 of the district's fiscal year.

24 (b) Except as provided by Subsection (h), if [~~if~~] the board
25 refuses to approve the annual audit report, the board shall submit a
26 copy of the report to the executive director for filing within 135
27 days after the close of the district's fiscal year, accompanied by a

1 statement from the board explaining the reasons for its failure to
2 approve the report.

3 (h) A special water authority shall submit a copy of the
4 report to the executive director for filing within 160 days after
5 the close of the special water authority's fiscal year.

6 SECTION 7. Section 49.213, Water Code, is amended by adding
7 Subsection (d) to read as follows:

8 (d) A written contract between a district and any person,
9 including any public or private entity, for the provision of goods
10 or services to the district is a contract subject to Subchapter I,
11 Chapter 271, Local Government Code. The district and any person,
12 including any public or private entity, waive sovereign immunity to
13 suit for the purpose of adjudicating a claim for a breach of the
14 contract, subject to the terms and conditions of Subchapter I,
15 Chapter 271, Local Government Code.

16 SECTION 8. Section 49.216, Water Code, is amended by
17 amending Subsection (e) and adding Subsection (f) to read as
18 follows:

19 (e) Any peace officer who is directly employed by a
20 district, before beginning to perform any duties and at the time of
21 appointment, must take an oath and execute a bond conditioned on
22 faithful performance of such officer's duties in the amount of
23 \$1,000 payable to the district. The oath and the bond shall be
24 filed in the district office.

25 (f) A peace officer contracted for by the district,
26 individually or through a county, sheriff, constable, or
27 municipality, is an independent contractor, and the district is

1 responsible for the acts or omissions of the peace officer only to
2 the extent provided by law for other independent contractors.

3 SECTION 9. Section 49.273(d), Water Code, is amended to
4 read as follows:

5 (d) For contracts over \$50,000, the board shall advertise
6 the letting of the contract, including the general conditions,
7 time, and place of opening of sealed bids. The notice must [~~shall~~]
8 be published in one or more newspapers circulated in each county in
9 which part of the district is located. If one newspaper meets both
10 of these requirements, publication in such newspaper is sufficient.
11 If there are more than four counties in the district, notice may be
12 published in any newspaper with general circulation in the
13 district. The notice must [~~shall~~] be published once a week for two
14 consecutive weeks before the date that the bids are opened, and the
15 first publication must [~~shall~~] be not later than the 14th [~~21st~~] day
16 before the date of the opening of the sealed bids.

17 SECTION 10. Section 49.351, Water Code, is amended by
18 amending Subsections (a), (b), (c), (f), (i), and (l) and adding
19 Subsection (m) to read as follows:

20 (a) A district providing potable water or sewer service to
21 household users may establish, operate, and maintain, finance with
22 ad valorem taxes, mandatory fees, or voluntary contributions, and
23 issue bonds for a fire department to perform all fire-fighting
24 services within the district as provided in this subchapter and may
25 provide for [~~issue bonds or impose a mandatory fee, with voter~~
26 ~~approval, for financing a plan approved in accordance with this~~
27 ~~section, including~~] the construction and purchase of necessary

1 buildings, facilities, land, and equipment and the provision of an
2 adequate water supply.

3 (b) After complying with the requirements of this section
4 ~~[approval of the district electors of a plan to operate, jointly~~
5 ~~operate, or jointly fund the operation of a fire department, and~~
6 ~~after complying with Subsections (g), (h), and (i)]~~, the district
7 or districts shall provide an adequate system and water supply for
8 fire-fighting purposes, may purchase necessary land, may construct
9 and purchase necessary buildings, facilities, and equipment, and
10 may employ or contract with a fire department to employ all
11 necessary personnel including supervisory personnel to operate the
12 fire department.

13 (c) Bonds shall be authorized and may be issued and ad
14 valorem taxes shall be authorized and may be imposed for financing a
15 plan approved in accordance with this section ~~[shall be authorized~~
16 ~~and may be issued, and a district shall be authorized to levy a tax~~
17 ~~to pay the principal of and interest on such bonds,~~] as provided by
18 law for authorization and issuance of other bonds and authorization
19 and imposition of other ad valorem taxes of the district.

20 (f) Before a district imposes an ad valorem tax or issues
21 bonds payable wholly or partly from ad valorem taxes to finance the
22 establishment of ~~[establishes]~~ a fire department, a contract
23 ~~[contracts]~~ to operate a joint fire department, or a contract
24 ~~[contracts]~~ with another person to perform fire-fighting services
25 within the district, the district must comply with the provisions
26 of Subsections (g), (h), and (i). A district that funds
27 fire-fighting services with revenue, including mandatory fees or

1 voluntary contributions, is not required to comply with the
2 provisions of Subsection (g), (h), or (i).

3 (i) After approval of a plan by the commission, the district
4 shall submit to the electors of the district at the election to
5 approve bonds payable wholly or partly from ad valorem taxes or to
6 impose ad valorem taxes [~~to impose a mandatory fee~~] for financing
7 the plan, [~~or if no bonds or fees are to be approved, at an election~~
8 ~~called for approval of the plan,~~] which may be held in conjunction
9 with an election required by Section 49.102, the proposition of
10 whether or not the plan should be implemented or entered into by the
11 district. [~~The ballots at the election shall be printed, as~~
12 ~~applicable, to provide for voting for or against the proposition.~~
13 ~~"The implementation of the plan for (operation/joint operation) of~~
14 ~~a fire department", or "The plan and contract to provide~~
15 ~~fire-fighting services for the district."~~]

16 (l) A [~~Notwithstanding the requirements of Subsections~~
17 ~~(a)-(j), a~~] district providing potable water or sewer service to
18 household users may as part of its billing process collect from its
19 customers a voluntary contribution on behalf of organizations
20 providing fire-fighting services to the district. A district that
21 chooses to collect a voluntary contribution under this subsection
22 must give reasonable notice to its customers that the contribution
23 is voluntary. Water and sewer service may not be terminated as a
24 result of failure to pay the voluntary contribution.

25 (m) Notwithstanding Subsection (l), if a customer makes a
26 partial payment of a district bill for water or sewer service and
27 includes with the payment a voluntary contribution for

1 fire-fighting services, the district shall apply the voluntary
2 contribution first to the bill for water or sewer service,
3 including any interest or penalties imposed. Any amount remaining
4 shall be used for fire-fighting services.

5 SECTION 11. Section 49.4645(a), Water Code, is amended to
6 read as follows:

7 (a) A district all or part of which is located in Bastrop
8 County, Bexar County, Waller County, Travis County, Williamson
9 County, Harris County, Galveston County, Brazoria County,
10 Montgomery County, or Fort Bend County may issue bonds supported by
11 ad valorem taxes to pay for the development and maintenance of
12 recreational facilities only if the bonds are authorized by a
13 majority vote of the qualified voters of the district voting in an
14 election held for that purpose. The outstanding principal amount
15 of bonds, notes, and other obligations issued to finance parks and
16 recreational facilities supported by ad valorem taxes [~~payable from~~
17 ~~any source~~] may not exceed an amount equal to one percent of the
18 value of the taxable property in the district as shown by the tax
19 rolls of the central appraisal district at the time of the issuance
20 of the bonds, notes, and other obligations or an amount greater than
21 the estimated cost provided in the park plan under Subsection (b),
22 whichever is smaller. The district may not issue bonds supported by
23 ad valorem taxes to pay for the development and maintenance of:

- 24 (1) indoor or outdoor swimming pools; or
25 (2) golf courses.

26 SECTION 12. Section 51.523, Water Code, is amended to read
27 as follows:

1 Sec. 51.523. BALLOTS. The ballot for an election under this
2 subchapter shall be printed to provide for voting for or against
3 defining the area to be taxed or designating the property to be
4 served, affected, and taxed and, if applicable, issuing bonds and
5 imposing a tax to retire the bonds or imposing a maintenance tax not
6 to exceed the rate, which must be specified in the ballot
7 proposition, provided by the proposed plan of taxation.
8 [~~substantially the proposition: "Designation of the area, issuance~~
9 ~~of bonds, and levy of a tax to retire the bonds."~~]

10 SECTION 13. Section 51.527, Water Code, is amended by
11 adding Subsection (c) to read as follows:

12 (c) Unless a maintenance tax is imposed in the defined area
13 or on the designated property, once bonds issued for the defined
14 area or designated property are paid off or defeased, the board may
15 declare the defined area dissolved or may repeal the designation of
16 the designated property, at which time the board shall cease
17 imposing taxes on the property located in the defined area or on the
18 designated property.

19 SECTION 14. Section 54.236, Water Code, is amended to read
20 as follows:

21 Sec. 54.236. STREET OR SECURITY LIGHTING. Subject to the
22 provisions of this section, a district may purchase, install,
23 operate, and maintain street lighting or security lighting within
24 public utility easements or public rights-of-way or property owned
25 by the district [~~within the boundaries of the district~~]. A
26 district, other than a district exercising powers under Section
27 54.234 or Subchapter N, Chapter 49, may not issue bonds supported by

1 ad valorem taxes to pay for the purchase, installation, and
2 maintenance of street or security lighting.

3 SECTION 15. Section 54.739, Water Code, is amended to read
4 as follows:

5 Sec. 54.739. SUBSTITUTING PROPERTY [~~LAND~~] OF EQUAL VALUE.
6 After the district is organized and has obtained voter approval for
7 the issuance of, or has sold, bonds payable wholly or partly from ad
8 valorem taxes, property [~~acquires facilities with which to function~~
9 ~~for the purposes for which it was organized, and votes, issues and~~
10 ~~sells bonds for such purposes, land~~] within the district boundaries
11 subject to taxation that does not need or utilize the services of
12 the district may be excluded and other property [~~land~~] not within
13 the boundaries of the district may be included within the
14 boundaries of the district without impairment of the security for
15 payment of [~~the~~] bonds or invalidation of any prior bond election,
16 as provided by this section and Sections 54.740 through 54.747.

17 SECTION 16. Section 54.744, Water Code, is amended to read
18 as follows:

19 Sec. 54.744. IMPAIRMENT OF SECURITY. (a) For purposes of
20 the board's consideration of the applications, the lands proposed
21 for inclusion shall be deemed to be sufficient to avoid an
22 impairment of the security for payment of obligations of the
23 district if:

24 (1) according to the most recent tax roll of the
25 district or the most recently certified estimates of taxable value
26 from the chief appraiser of the appropriate appraisal district, the
27 taxable value of such included lands equals or exceeds the taxable

1 value of the excluded lands;

2 (2) either the estimated costs of providing district
3 facilities and services to such included lands is equal to or less
4 than the estimated costs of providing district facilities and
5 services to the excluded lands or any increased estimated costs of
6 providing district facilities and services to the included land, as
7 determined by the district's engineer, can be amortized at
8 prevailing bond interest rates and maturity schedules and the
9 prevailing debt service tax rate of the district, as determined by
10 the district's professional financial advisor, when applied to the
11 increase in taxable value of the included land over the taxable
12 value of the excluded land; and

13 (3) with respect only to a district with [~~the~~
14 ~~district's~~] outstanding bonds or contract obligations [~~are~~]
15 payable in whole or in part by a pledge of net revenues from the
16 ownership or operation of the district's facilities, [~~and~~] the
17 projected net revenues to be derived from the property [~~lands~~] to be
18 included during the succeeding 12-month period, as determined by
19 the district's engineer, equals or exceeds the projected net
20 revenues that would otherwise have been derived from the property
21 [~~lands~~] to be excluded during the same period.

22 (b) For purposes of this section, the taxable value of
23 included property means the market value of the property if, before
24 or contemporaneously with the inclusion of the property in the
25 district, the owner of the property waives the right to special
26 appraisal of the property as to the district as authorized by
27 Section 23.20, Tax Code.

1 SECTION 17. Section 388.005, Health and Safety Code, as
2 amended by Chapters 262 (S.B. 12) and 939 (H.B. 3693), Acts of the
3 80th Legislature, Regular Session, 2007, is reenacted and amended
4 to read as follows:

5 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN INSTITUTIONS OF
6 HIGHER EDUCATION [~~STATE AGENCIES~~] AND CERTAIN GOVERNMENTAL
7 ENTITIES. (a) In this section:

8 (1) "Institution of higher education" includes an
9 institution of higher education as defined by Section 61.003,
10 Education Code, and a private institution of higher education that
11 receives funding from the state.

12 (2) "Political subdivision" means:

13 (A) an affected county; or

14 (B) any political subdivision in a nonattainment
15 area or in an affected county other than:

16 (i) a school district; or

17 (ii) a district as defined by Section
18 36.001 or 49.001, Water Code, that had a total annual electricity
19 expense of less than \$200,000 in the previous fiscal year of the
20 district.

21 (3) "State agency" means a department, commission,
22 board, office, council, or other agency in the executive branch of
23 state government that is created by the constitution or a statute of
24 this state and has authority not limited to a geographical portion
25 of the state.

26 (b) Each political subdivision, institution of higher
27 education, or state agency shall implement all energy efficiency

1 measures that meet the standards established for a contract for
2 energy conservation measures under Section 302.004(b), Local
3 Government Code, in order to reduce electricity consumption by the
4 existing facilities of the entity.

5 (c) Each political subdivision, institution of higher
6 education, or state agency shall establish a goal to reduce the
7 electric consumption by the entity by five percent each state
8 fiscal year for six years, beginning September 1, 2007.

9 (d) A political subdivision, institution of higher
10 education, or state agency that does not attain the goals under
11 Subsection (c) must include in the report required by Subsection
12 (e) justification that the entity has already implemented all
13 available measures. An entity that submits a report under this
14 subsection indicating it has already implemented all available
15 measures is exempt from the annual reporting requirement of
16 Subsection (e) if a subsequent report would indicate no change in
17 status. An entity may be required to provide notice that it is
18 exempt to the State Energy Conservation Office.

19 (e) A political subdivision, institution of higher
20 education, or state agency annually shall report to the State
21 Energy Conservation Office, on forms provided by that office,
22 regarding the entity's efforts and progress under this section.
23 The State Energy Conservation Office shall provide assistance and
24 information to the entity to help the entity meet the goals set
25 under this section.

26 (f) This section does not apply to a state agency or an
27 institution of higher education that the State Energy Conservation

1 Office determines that, before September 1, 2007, adopted a plan
2 for conserving energy under which the agency or institution
3 established a percentage goal for reducing the consumption of
4 electricity. The exemption provided by this section applies only
5 while the agency or institution has an energy conservation plan in
6 effect and only if the agency or institution submits reports on the
7 conservation plan each calendar quarter to the governor, the
8 Legislative Budget Board, and the State Energy Conservation Office.

9 (g) This section does not apply to the electricity
10 consumption of a district as defined by Section 36.001 or 49.001,
11 Water Code, that relates to the operation and maintenance of
12 wastewater collection and treatment, water supply and
13 distribution, or stormwater diversion, detention, or pumping
14 facilities or improvements.

15 SECTION 18. Section 43.0751(a)(1), Local Government Code,
16 is amended to read as follows:

17 (1) "District" means a conservation and reclamation
18 ~~[water control and improvement]~~ district ~~[or a municipal utility~~
19 ~~district created or]~~ operating under Chapter 49 ~~[51 or 54]~~, Water
20 Code.

21 SECTION 19. Section 43.0751, Local Government Code, is
22 amended by adding Subsection (r) to read as follows:

23 (r) To be annexed for limited purposes under this section,
24 an area must be:

25 (1) in the municipality's extraterritorial
26 jurisdiction; and

27 (2) contiguous to the corporate or limited purpose

1 boundaries of the municipality, unless the district consents to
2 noncontiguous annexation pursuant to a strategic partnership
3 agreement with the municipality.

4 SECTION 20. This Act takes effect September 1, 2009.