

BILL ANALYSIS

Senate Research Center
82R8104 RWG-F

H.B. 1901
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Natural Resources
4/28/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, certain special purpose districts are exempted from the required approval of the Texas Commission on Environmental Quality (TCEQ) for the issuance of bonds. According to interested parties, the rationale behind such exemptions is to eliminate unnecessary bureaucratic red tape for those districts that are well established with a significant number of customers and an investment grade rating. H.B. 1901 seeks to apply that same rationale to certain public utility agencies by establishing provisions relating to the applicability of provisions concerning bond approval by TCEQ to certain water entities.

H.B. 1901 amends current law relating to the applicability of provisions concerning bond approval by the Texas Commission on Environmental Quality to certain water entities.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 49.181(a) and (h), Water Code, as follows:

(a) Prohibits a district from issuing bonds unless the Texas Natural Resource Conservation Commission (TNRCC) determines that the project to be financed by the bonds is feasible and issues an order approving the issuance of the bonds. Provides that this section does not apply to certain bonds, including bonds issued by a public utility agency created under Chapter 572 (Water Provisions Applying to More Than One Type of Local Government), Local Government Code, any of the public entities participating in which are districts if at least one of those districts is a district described by Subsection (h)(1)(E). Makes nonsubstantive changes.

(h) Provides that this section does not apply to:

(1) a district if:

(A) the district's boundaries include one entire county;

(B) the district was created by a special Act of the legislature and:

(i) the district is located entirely within one county;

(ii) the district is located entirely within one or more home-rule municipalities;

(iii) the total taxable value of the real property and improvements to the real property zoned by one or more home-rule municipalities for residential purposes and located within the district does not exceed 25 percent of the total taxable value of all taxable property in the district, as shown by the most recent certified appraisal tax roll prepared by the appraisal district for the county; and

(iv) the district was not required by law to obtain TNRCC approval of its bonds before the effective date of this section;

(C) the district is a special water authority;

(D) the district is governed by a board of directors appointed in whole or in part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and does not provide, or propose to provide, water, sewer, drainage, reclamation, or flood control services to residential retail or commercial customers as its principal function; or

(E) the district on September 1, 2003:

(i) is a municipal utility district that includes territory in only two counties;

(ii) has outstanding long-term indebtedness that is rated BBB or better by a nationally recognized rating agency for municipal securities; and

(iii) has at least 5,000 active water connections; or

(2) a public utility agency created under Chapter 572, Local Government Code, any of the public entities participating in which are districts if at least one of those districts is a district described by Subdivision (1)(E).

Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 49.052(f), Water Code, to require that this section not apply to water authorities, districts described in Section 49.181(h)(1)(D), rather than Section 49.181(h)(4), or a district where the principal function of the district is to provide irrigation water to agricultural lands or to provide nonpotable water for any purpose.

SECTION 3. Amends Section 49.183(d), Water Code, to provide that except for this subsection, this section does not apply to special water authorities or districts described in Section 49.181(h)(1)(D), rather than in Section 49.181(h)(4).

SECTION 4. Provides that the change in law made by this Act, does not apply to bonds for which an application and report were submitted to the Texas Commission on Environmental Quality under Section 49.181(b) (relating to authorizing a district to submit to TNRCC a written application for investigation of feasibility), Water Code, before the effective date of this Act. Provides that those bonds are governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. Effective date: upon passage or September 1, 2011.