

By: Callegari

H.B. No. 725

A BILL TO BE ENTITLED

AN ACT

relating to the operation, powers, and duties of certain water districts.

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

SECTION 1. Section 343.011, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) Subsection (c)(11) does not apply to a drainage easement owned or operated by a district as that term is defined by Section 49.001, Water Code.

SECTION 2. Section 388.005, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) This section does not apply to the electricity consumption of a district as defined by Section 36.001 or 49.001, Water Code, that relates to the operation and maintenance of facilities or improvements for:

(1) wastewater collection and treatment;

(2) water supply and distribution; or

(3) storm water diversion, detention, or pumping.

SECTION 3. Section 43.0751(a)(1), Local Government Code, is amended to read as follows:

(1) "District" means a conservation and reclamation ~~[water control and improvement]~~ district ~~[or a municipal utility district created or]~~ operating under Chapter 49 ~~[51 or 54]~~, Water Code. The term does not include a special utility district

1 operating under Chapter 65, Water Code, or a groundwater
2 conservation district operating under Chapter 36, Water Code.

3 SECTION 4. Section 43.0751, Local Government Code, is
4 amended by adding Subsection (r) to read as follows:

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

7 (1) in the municipality's extraterritorial
8 jurisdiction; and

9 (2) contiguous to the corporate or limited purpose
10 boundaries of the municipality, unless the district consents to
11 noncontiguous annexation pursuant to a strategic partnership
12 agreement with the municipality.

13 SECTION 5. Section 375.161, Local Government Code, is
14 amended to read as follows:

15 Sec. 375.161. CERTAIN RESIDENTIAL PROPERTY EXEMPT. (a)
16 The board may not impose an impact fee, assessment, tax, or other
17 requirement for payment, construction, alteration, or dedication
18 under this chapter on single-family detached residential property,
19 duplexes, triplexes, and quadraplexes.

20 (b) This section does not apply to an impact fee,
21 assessment, tax, or other requirement for payment for water, sewer,
22 drainage, reclamation, flood control, road, or park and
23 recreational services or improvements of a district operating under
24 this chapter that provides, or proposes to provide, those services
25 or improvements.

26 SECTION 6. Section 552.014, Local Government Code, is
27 amended to read as follows:

1 Sec. 552.014. CONTRACTS WITH WATER DISTRICTS OR NONPROFIT
2 CORPORATIONS. (a) In this section:

3 (1) "Project" means a water supply or treatment
4 system, a water distribution system, a sanitary sewage collection
5 or treatment system, works or improvements necessary for drainage
6 of land, recreational facilities, roads and improvements in aid of
7 roads, or facilities to provide firefighting services.

8 (2) "Water district" [,"water district"] means a
9 district created under Article XVI, Section 59, of the Texas
10 Constitution.

11 (b) A municipality may enter into a contract with a water
12 district or with a corporation organized to be operated without
13 profit under which the district or corporation will acquire for the
14 benefit of and convey to the municipality, either separately or
15 together, one or more projects [~~a water supply or treatment system,~~
16 ~~a water distribution system, a sanitary sewage collection or~~
17 ~~treatment system, or works or improvements necessary for drainage~~
18 ~~of land in the municipality~~]. In connection with the acquisition,
19 the district or corporation shall improve, enlarge, or extend the
20 existing municipal facilities as provided by the contract.

21 (c) If the contract provides that the municipality assumes
22 ownership of the project [~~water, sewer, or drainage system~~] on
23 completion of construction or at the time that all debt incurred by
24 the district or corporation in the acquisition, construction,
25 improvement, or extension of the project [~~system~~] is paid in full,
26 the municipality may make payments to the district or corporation
27 for project [~~water, sewer, or drainage~~] services to part or all of

1 the residents of the municipality. The contract may provide for
2 purchase of the project [~~system~~] by the municipality through
3 periodic payments to the district or corporation in amounts that,
4 together with the net income of the district or corporation, are
5 sufficient to pay the principal of and interest on the bonds of the
6 district or corporation as they become due. The contract may
7 provide:

8 (1) that any payments due under this section are
9 payable from and are secured by a pledge of a specified part of the
10 revenues of the municipality, including revenues from municipal
11 sales and use taxes [~~municipal water system, sewer system, or~~
12 ~~drainage system~~];

13 (2) for the levying of a tax to make payments due under
14 this section; or

15 (3) that the payments due under this section be made
16 from a combination of revenues [~~from the system~~] and taxes.

17 (d) The contract may provide that the district or
18 corporation may use the streets, alleys, and other public ways and
19 places of the municipality for project [~~water, sewer, or drainage~~]
20 purposes for a period that ends at the time the indebtedness of the
21 district or corporation is paid in full and the municipality
22 acquires title to the project [~~system~~] in accordance with this
23 section.

24 (e) The contract may provide for the operation of the
25 project [~~system~~] by the municipality, and, if so authorized, the
26 municipality may operate the project [~~system~~].

27 (f) A contract under this section must be authorized by a

1 majority vote of the governing body of the municipality.

2 (g) This section does not authorize a water district or
3 corporation described by Subsection (b) to participate in a project
4 that the water district or corporation is not authorized to
5 participate in under other law.

6 SECTION 7. Section 49.059, Water Code, is amended to read as
7 follows:

8 Sec. 49.059. [~~DISQUALIFICATION OF~~] TAX ASSESSOR AND
9 COLLECTOR. (a) The district may employ or contract with any person
10 to serve as its tax assessor and collector who is:

11 (1) an individual certified as a registered Texas
12 assessor-collector; or

13 (2) a firm, organization, association, partnership,
14 corporation, or other legal entity if an individual certified as a
15 registered Texas assessor-collector owns an interest in or is
16 employed by the firm, organization, association, partnership,
17 corporation, or other legal entity.

18 (b) A tax assessor and collector employed or contracted for
19 under this section is not required to be a natural person.

20 (c) A firm, organization, association, partnership,
21 corporation, or other legal entity serving as district tax assessor
22 and collector shall give a bond as required by Section 49.057 for a
23 natural person.

24 (d) No person may serve as tax assessor and collector of a
25 district providing potable water or sewer utility services to
26 household users if that person:

27 (1) is a natural person related within the third

1 degree of affinity or consanguinity to any developer of property in
2 the district, a member of the board, or the manager, engineer, or
3 attorney for the district;

4 (2) is or was within two years immediately preceding
5 the assumption of assessment and collection duties with the
6 district an employee of any developer of property in the district or
7 any director, manager, engineer, or attorney for the district;

8 (3) owns an interest in or is employed by any
9 corporation organized for the purpose of tax assessment and
10 collection services, a substantial portion of the stock of which is
11 owned by a developer of property within the district or any
12 director, manager, engineer, or attorney for the district; or

13 (4) is directly or through a corporation developing
14 land in the district or is a director, engineer, or attorney for the
15 district.

16 (e) [~~(b)~~] Within 60 days after the board determines a
17 relationship or employment exists which constitutes a
18 disqualification under Subsection (d) [~~(a)~~], it shall replace the
19 person serving as tax assessor and collector with a person who would
20 not be disqualified.

21 (f) [~~(c)~~] Any person who wilfully violates the provisions
22 of Subsection (d) [~~(a)~~] is guilty of a misdemeanor and on conviction
23 shall be fined not less than \$100 nor more than \$1,000.

24 (g) [~~(d)~~] As used in this section, "developer of property in
25 the district" has the same meaning as in Section 49.052(d).

26 SECTION 8. Section 49.063, Water Code, is amended to read as
27 follows:

1 Sec. 49.063. NOTICE OF MEETINGS. (a) Notice of meetings of
2 the board shall be given as set forth in the open meetings law,
3 Chapter 551, Government Code, except that if a district does not
4 have a meeting place within the district, the district shall post
5 notice of its meeting at a public place within the district
6 specified by the board in a written resolution, rather than at its
7 administrative office. The board shall specify such public place
8 to be a bulletin board or other place within the district which is
9 reasonably available to the public.

10 (b) The validity of an action taken at a board meeting is not
11 affected by:

12 (1) [~~Neither~~] failure to provide notice of the meeting
13 if the meeting is a regular meeting;

14 (2) [~~nor~~] an insubstantial defect in notice of the
15 [~~any~~] meeting; or

16 (3) failure of a county clerk to timely or properly
17 post or maintain public access to a notice of the meeting if notice
18 of the meeting is furnished to the county clerk in sufficient time
19 for posting under Section 551.043(a) or 551.045, Government Code
20 [~~shall affect the validity of any action taken at the meeting~~].

21 SECTION 9. Sections 49.102(a), (b), (c), and (h), Water
22 Code, are amended to read as follows:

23 (a) Before issuing any bonds or other obligations, an
24 election shall be held within the boundaries of the proposed
25 district on a uniform election date provided by Section 41.001,
26 Election Code, to determine if the proposed district shall be
27 established and, if the directors of the district are required by

1 law to be elected, to elect permanent directors.

2 (b) Notice of a confirmation or director election shall
3 state the day and place or places for holding the election, the
4 propositions to be voted on, and, if applicable, the number of
5 directors to be voted on.

6 (c) The ballots for a confirmation election shall be printed
7 to provide for voting "For District" and "Against District."
8 Ballots for a directors election shall provide the names of the
9 persons appointed by the governing body who qualified and are
10 serving as temporary directors at the time the election is called.
11 If the district has received an application by a write-in
12 candidate, the [~~The~~] ballots shall also have blank places after the
13 names of the temporary directors in which a voter may write the
14 names of any candidates appearing on the list of write-in
15 candidates required by Section 146.031, Election Code [~~other~~
16 ~~persons for directors~~].

17 (h) Unless otherwise agreed, the elected directors shall
18 decide the initial terms of office by lot, with a simple majority of
19 the elected directors serving until the second succeeding directors
20 election and the remaining elected directors serving until the next
21 directors election.

22 SECTION 10. Sections 49.103(a) and (b), Water Code, are
23 amended to read as follows:

24 (a) Except as provided by Section 49.102, the members of the
25 board of a district shall serve staggered [~~for~~] four-year terms.

26 (b) After confirmation of a district, an [~~An~~] election shall
27 be held on the uniform election date, provided by Section 41.001,

1 ~~[established by the]~~ Election Code, in May of each even-numbered
2 year to elect the appropriate number of directors.

3 SECTION 11. Subchapter D, Chapter 49, Water Code, is
4 amended by adding Section 49.1045 to read as follows:

5 Sec. 49.1045. CERTIFICATION OF ELECTION RESULTS IN LESS
6 POPULOUS DISTRICTS. (a) This section applies only to a district
7 that:

8 (1) has 10 or fewer registered voters; and

9 (2) holds an election jointly with a county in which
10 the district is wholly or partly located.

11 (b) A district may provide for an inquiry into and
12 certification of the voting results of an election under this
13 section if:

14 (1) the election results indicate that the number of
15 votes cast in the election was greater than the number of registered
16 voters in the district;

17 (2) the board determines that the election results are
18 likely to be disputed in court; and

19 (3) the board can determine from the official list of
20 registered voters prepared by the county voter registrar or county
21 elections administrator for the district election which voters were
22 qualified to vote in the district election and can determine from
23 the signature roster from the joint election who voted in the joint
24 election.

25 (c) To certify the district votes, the board by rule shall
26 adopt a procedure to determine for each person who signed the
27 signature roster as a voter in the joint election:

1 (1) whether the person's address on the day of the
2 election was in the district; and

3 (2) how the person voted in the district election.

4 (d) The certified votes are the official election results.

5 (e) Certification of the results under this section does not
6 preclude the filing of an election contest.

7 SECTION 12. Sections 49.105(c) and (d), Water Code, are
8 amended to read as follows:

9 (c) If the number of directors is reduced to fewer than a
10 majority or if a vacancy continues beyond the 90th day after the
11 date the vacancy occurs, the vacancy or vacancies may [~~shall~~] be
12 filled by appointment by the commission if the district is required
13 by Section 49.181 to obtain commission approval of its bonds or by
14 the county commissioners court if the district was created by the
15 county commissioners court, regardless of whether a petition has
16 been presented to the board under Subsection (b). An appointed
17 director shall serve for the unexpired term of the director he or
18 she is replacing.

19 (d) In the event of a failure to elect one or more members of
20 the board of a district resulting from the absence of, or failure to
21 vote by, the qualified voters in the district, the current members
22 of the board or temporary board holding the positions not filled at
23 such election shall be deemed to have been elected [~~reelected~~] and
24 shall serve an additional term of office, or, in the case of a
25 temporary board member deemed elected under this subsection, the
26 initial term of office.

27 SECTION 13. Section 49.108, Water Code, is amended by

1 adding Subsections (g), (h), and (i) to read as follows:

2 (g) On or before the first day for early voting by personal
3 appearance at an election held to authorize a contract, a
4 substantially final form of the contract must be filed in the office
5 of the district and must be open to inspection by the public. The
6 contract is not required to be attached as an exhibit to the order
7 calling the election to authorize the contract.

8 (h) A single contract may contain multiple purposes or
9 provisions for multiple facilities authorized by one or more
10 constitutional provisions. The contract may generally describe the
11 facilities to be acquired or financed by the district without
12 reference to specific constitutional provisions. A contract
13 described by this subsection may be submitted for approval in a
14 single proposition at an election.

15 (i) A contract between districts to provide facilities or
16 services is not required to specify the maximum amount of bonds or
17 expenditures authorized under the contract if:

18 (1) the contract provides that the service area cannot
19 be enlarged without the consent of at least two-thirds of the boards
20 of directors of the districts that are:

21 (A) included in the service area as proposed to
22 be enlarged; or

23 (B) served by the facilities or services provided
24 in the contract;

25 (2) the contract provides that bonds or expenditures,
26 payable wholly or partly from contract taxes, are issued or made:

27 (A) on an emergency basis; or

1 (B) to purchase, construct, acquire, own,
2 operate, repair, improve, or extend services or facilities
3 necessary to comply with changes in applicable regulatory
4 requirements; or

5 (3) the contract provides that the bonds or
6 expenditures require prior approval by any district that is
7 obligated to pay debt service on those bonds or to pay for those
8 expenditures wholly or partly with contract taxes.

9 SECTION 14. Subchapter D, Chapter 49, Water Code, is
10 amended by adding Sections 49.109, 49.110, 49.111, 49.112, 49.113,
11 and 49.114 to read as follows:

12 Sec. 49.109. AGENT DURING ELECTION PERIOD. The board may
13 appoint a person, including a district officer, employee, or
14 consultant, to serve as the district's agent under Section 31.123,
15 Election Code.

16 Sec. 49.110. ELECTION JUDGE. (a) The notice requirements
17 for the appointment of a presiding election judge under Section
18 32.009, Election Code, do not apply to an election held by a
19 district.

20 (b) To serve as an election judge in an election held by a
21 district, a person must be a registered voter of the county in which
22 the district is wholly or partly located. To the extent of any
23 conflict with Section 32.051, Election Code, this section controls.

24 Sec. 49.111. USE OF COUNTY PRECINCTS NOT REQUIRED.
25 Notwithstanding Section 42.002(a)(5), Election Code, a district is
26 not required to use county election precincts.

27 Sec. 49.112. EXEMPTIONS FROM USE OF ACCESSIBLE VOTING

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

4 (1) the election is a confirmation election or an
5 election held jointly with a confirmation election on the same date
6 and in conjunction with the confirmation election, except for an
7 election in which a federal office appears on the ballot;

8 (2) the most recently scheduled district directors'
9 election was not held, as provided by Section 2.053(b), Election
10 Code; or

11 (3) fewer than 250 voters voted at the most recently
12 held district directors' election.

13 (b) A district eligible for the exemption under Subsection
14 (a) must publish notice in a newspaper of general circulation in an
15 area that includes the district or mail notice to each voter in the
16 district regarding the district's intention to hold an election
17 without providing a voting station that meets the requirements for
18 accessibility under 42 U.S.C. Section 15481(a)(3) on election day
19 and during the period for early voting by personal appearance. The
20 notice must be published or mailed not later than the later of:

21 (1) the 75th day before the date of the election; or

22 (2) the date on which the district adopts the order
23 calling the election.

24 (c) The notice required by Subsection (b) must:

25 (1) provide that any voter in the district may request
26 the use of a voting station that meets the accessibility
27 requirements for voting by a person with a disability; and

1 (2) provide information on how to submit such a
2 request.

3 (d) The district shall comply with a request for an
4 accessible voting station if the request is received not later than
5 the 45th day before the date of the election.

6 Sec. 49.113. CANCELLATION OF ELECTION; REMOVAL OF BALLOT
7 MEASURE. Before the first day of early voting by personal
8 appearance, the board by order or resolution may cancel an election
9 called at the discretion of the district or may remove from the
10 ballot a measure included at the discretion of the district. A copy
11 of the order or resolution must be posted during the period for
12 early voting by personal appearance and on election day at each
13 polling place that is used or that would have been used in the
14 election.

15 Sec. 49.114. NOTICE FOR FILING FOR PLACE ON BALLOT. A
16 notice required by Section 141.040, Election Code, must be posted
17 at the district's administrative office in the district or at the
18 public place established by the district under Section 49.063 of
19 this chapter not later than the 30th day before the deadline for a
20 candidate to file an application for a place on the ballot of a
21 district directors' election.

22 SECTION 15. Section 49.151(c), Water Code, is amended to
23 read as follows:

24 (c) The board may allow disbursements of district money to
25 be transferred by federal reserve wire system or by electronic
26 means. The board by resolution may allow the wire or electronic
27 transfers to accounts in the name of the district or accounts not in

1 the name of the district.

2 SECTION 16. Sections 49.154(a) and (c), Water Code, are
3 amended to read as follows:

4 (a) The board may declare an emergency in the matter of
5 funds not being available to pay principal of and interest on any
6 bonds of the district payable in whole or in part from taxes or to
7 meet any other needs of the district and may issue [~~negotiable~~] tax
8 anticipation notes or [~~negotiable~~] bond anticipation notes to
9 borrow the money needed by the district without advertising or
10 giving notice of the sale. A district's bond anticipation notes or
11 tax anticipation notes are negotiable instruments within the
12 meaning and purposes of the Business & Commerce Code
13 notwithstanding any provision to the contrary in that code. Bond
14 anticipation notes and tax anticipation notes shall mature within
15 one year of their date.

16 (c) Bond anticipation notes may be issued for any purpose
17 for which bonds of the district may be issued [~~have previously been~~
18 ~~voted~~] or [~~may be issued~~] for the purpose of refunding previously
19 issued bond anticipation notes. A district may covenant with the
20 purchasers of the bond anticipation notes that the district will
21 use the proceeds of sale of any bonds in the process of issuance for
22 the purpose of refunding the bond anticipation notes, in which case
23 the board will be required to use the proceeds received from sale of
24 the bonds in the process of issuance to pay principal, interest, or
25 redemption price on the bond anticipation notes.

26 SECTION 17. Section 49.181(a), Water Code, is amended to
27 read as follows:

1 (a) A district may not issue bonds to finance a project for
2 which the commission has adopted rules requiring review and
3 approval unless the commission determines that the project [~~to be~~
4 ~~financed by the bonds~~] is feasible and issues an order approving the
5 issuance of the bonds. This section does not apply to:

6 (1) refunding bonds if the commission issued an order
7 approving the issuance of the bonds or notes that originally
8 financed the project;

9 (2) refunding bonds that are issued by a district
10 under an agreement between the district and a municipality allowing
11 the issuance of the district's bonds to refund bonds issued by the
12 municipality to pay the cost of financing facilities;

13 (3) bonds issued to and approved by the Farmers Home
14 Administration, the United States Department of Agriculture, the
15 North American Development Bank, or the Texas Water Development
16 Board; or

17 (4) refunding bonds issued to refund bonds described
18 by Subdivision (3).

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

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

26 (b) Except as provided by Subsection (h), if [~~if~~]
27 refuses to approve the annual audit report, the board shall submit a

1 copy of the report to the executive director for filing within 135
2 days after the close of the district's fiscal year, accompanied by a
3 statement from the board explaining the reasons for its failure to
4 approve the report.

5 (c) Copies of the audit report, the annual financial
6 dormancy affidavit, or annual financial report described in
7 Sections 49.197 and 49.198 shall be filed annually in the office of
8 the district.

9 (h) A special water authority shall submit a copy of the
10 audit report to the executive director for filing not later than the
11 160th day after the date the special water authority's fiscal year
12 ends.

13 SECTION 19. Section 49.212, Water Code, is amended by
14 amending Subsection (d) and adding Subsections (d-1) and (d-2) to
15 read as follows:

16 (d) Notwithstanding any provision of law to the contrary, a
17 district that charges a fee that is an impact fee as described in
18 Section 395.001(4), Local Government Code, must comply with Chapter
19 395, Local Government Code. A charge or fee is not an impact fee
20 under that chapter if:

21 (1) the charge or fee is imposed by a district for
22 construction, installation, or inspection of a tap or connection to
23 district water, sanitary sewer, or drainage facilities, including
24 all necessary service lines and meters, for capacity in storm water
25 detention or retention facilities and related storm water
26 conveyances, or for wholesale facilities that serve such water,
27 sanitary sewer, [~~or~~] drainage, or storm water detention or

1 retention facilities; and

2 (2) the charge or fee:

3 (A) [~~that (i)~~] does not exceed three times the
4 actual [~~and reasonable~~] costs to the district for such tap or
5 connection;

6 (B) [~~(ii)~~] if made to a nontaxable entity for
7 retail or wholesale service, does not exceed the actual costs to the
8 district for such work and for all facilities that are necessary to
9 provide district services to such entity and that are financed or
10 are to be financed in whole or in part by tax-supported or revenue
11 bonds of the district; i [~~r~~] or

12 (C) is [~~(iii) if~~] made by a district for retail or
13 wholesale service on land that at the time of platting was not being
14 provided with water, or [~~or~~] wastewater, drainage, or storm water
15 detention or retention service by the district [~~, shall not be~~
16 ~~deemed to be an impact fee under Chapter 395, Local Government~~
17 ~~Code~~].

18 (d-1) Actual costs under Subsection (d), as determined by
19 the board in its reasonable discretion, may include nonconstruction
20 expenses attributable to the design, permitting, financing, and
21 construction of those facilities, and reasonable interest on those
22 costs calculated at a rate not to exceed the net effective interest
23 rate on any district bonds issued to finance the facilities.

24 (d-2) A district may pledge the revenues of the district's
25 utility system to pay the principal of or interest on bonds issued
26 to construct the capital improvements for which a fee is [~~was~~]
27 imposed under Subsection (d) [~~this subsection~~], and money received

1 from the fees shall be considered revenues of the district's
2 utility system for purposes of the district's bond covenants.

3 SECTION 20. Section 49.2121(b), Water Code, is amended to
4 read as follows:

5 (b) A district may:

6 (1) accept a credit card for the payment of any fees
7 and charges imposed by the district;

8 (2) collect a fee~~[, not to exceed five percent of the~~
9 ~~amount of the fee or charge being paid,]~~ that is reasonably related
10 to the expense incurred by the district in processing the payment by
11 credit card; and

12 (3) collect a service charge for the expense incurred
13 by the district in collecting the original fee or charge if the
14 payment by credit card is not honored by the credit card company on
15 which the funds are drawn.

16 SECTION 21. 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 22. Sections 49.273(d) and (e), Water Code, are
4 amended to read as follows:

5 (d) For contracts over \$75,000 [~~\$50,000~~], the board shall
6 advertise the letting of the contract, including the general
7 conditions, time, and place of opening of sealed bids. The notice
8 must [~~shall~~] be published in one or more newspapers circulated in
9 each county in which [~~part of~~] the district is located. [~~If one~~
10 ~~newspaper meets both of these requirements, publication in such~~
11 ~~newspaper is sufficient.~~] If there are more than four counties in
12 the district, notice may be published in any newspaper with general
13 circulation in the district. The notice must [~~shall~~] be published
14 once a week for two consecutive weeks before the date that the bids
15 are opened, and the first publication must [~~shall~~] be not later than
16 the 14th [~~21st~~] day before the date of the opening of the sealed
17 bids.

18 (e) For contracts over \$25,000 but not more than \$75,000
19 [~~\$50,000~~], the board shall solicit written competitive bids on
20 uniform written specifications from at least three bidders.

21 SECTION 23. Section 49.351, Water Code, is amended by
22 amending Subsections (a), (b), (c), (f), (i), and (l) and adding
23 Subsection (m) to read as follows:

24 (a) A district providing potable water or sewer service to
25 household users may, separately or jointly with another district,
26 municipality, or other political subdivision, establish, operate,
27 and maintain, finance with ad valorem taxes, mandatory fees, or

1 voluntary contributions, and issue bonds for a fire department to
2 perform all fire-fighting services within the district as provided
3 in this subchapter and may provide for [~~issue bonds or impose a~~
4 ~~mandatory fee, with voter approval, for financing a plan approved~~
5 ~~in accordance with this section, including~~] the construction and
6 purchase of necessary buildings, facilities, land, and equipment
7 and the provision of an adequate water supply.

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

18 (c) For [~~Bonds for~~] financing a plan approved in accordance
19 with this section, bonds and ad valorem taxes must [~~shall~~] be
20 authorized and may be issued or imposed [~~, and a district shall be~~
21 ~~authorized to levy a tax to pay the principal of and interest on~~
22 ~~such bonds,~~] as provided by law for the authorization and issuance
23 of other bonds and the authorization and imposition of other ad
24 valorem taxes of the district.

25 (f) Before a district imposes an ad valorem tax or issues
26 bonds payable wholly or partly from ad valorem taxes to finance the
27 establishment of [~~establishes~~] a fire department, contracts to

1 operate a joint fire department, or contracts with another person
2 to perform fire-fighting services within the district, the district
3 must comply with ~~[the provisions of]~~ Subsections (g), (h), and (i).
4 A district that funds fire-fighting services with revenue,
5 including mandatory fees or voluntary contributions, is not
6 required to comply with Subsections (g), (h), and (i).

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

21 (1) A ~~[Notwithstanding the requirements of Subsections~~
22 ~~(a)-(j), a]~~ district providing potable water or sewer service to
23 household users may, as part of its billing process, collect from
24 its customers a voluntary contribution on behalf of organizations
25 providing fire-fighting services to the district. A district that
26 chooses to collect a voluntary contribution under this subsection
27 must give reasonable notice to its customers that the contribution

1 is voluntary. Water and sewer service may not be terminated as a
2 result of failure to pay the voluntary contribution.

3 (m) If a customer makes a partial payment of a district bill
4 for water or sewer service and includes with the payment a voluntary
5 contribution for fire-fighting services under Subsection (l), the
6 district shall apply the voluntary contribution first to the bill
7 for water or sewer service, including any interest or penalties
8 imposed. The district shall use any amount remaining for
9 fire-fighting services.

10 SECTION 24. Section 49.462(1), Water Code, is amended to
11 read as follows:

12 (1) "Recreational facilities" means parks,
13 landscaping, parkways, greenbelts, sidewalks, trails, public
14 right-of-way beautification projects, and recreational equipment
15 and facilities. The term includes associated street and security
16 lighting. The term does not include a minor improvement or
17 beautification project to land acquired or to be acquired solely as
18 part of a district's water, sewer, or drainage facilities.

19 SECTION 25. Subchapter N, Chapter 49, Water Code, is
20 amended by adding Section 49.4641 to read as follows:

21 Sec. 49.4641. RECREATIONAL FACILITIES ON SITES ACQUIRED FOR
22 WATER, SEWER, OR DRAINAGE FACILITIES. (a) A district may develop
23 and maintain recreational facilities on a site acquired for the
24 purpose of developing water, sewer, or drainage facilities.

25 (b) A district is not required to prorate the costs of a site
26 described by Subsection (a) between the primary water, sewer, or
27 drainage purpose and any secondary recreational facilities purpose

1 if a licensed professional engineer certifies that the site is
2 reasonably sized for the intended water, sewer, or drainage
3 purpose.

4 (c) The engineer may consider the following factors in
5 determining the reasonableness of the size of a water, sewer, or
6 drainage site:

7 (1) the rules, regulations, and design guidelines or
8 criteria of a municipality, county, or other entity exercising
9 jurisdiction;

10 (2) sound engineering principles;

11 (3) the impact on adjoining property;

12 (4) the availability of sites that meet the
13 requirements for the proposed use;

14 (5) requirements for sanitary control;

15 (6) the need for a buffer zone to mitigate noise or for
16 aesthetic purposes;

17 (7) benefits to storm water quality; and

18 (8) anticipated expansions of facilities resulting
19 from:

20 (A) future growth and demand for district
21 facilities; or

22 (B) changes in regulatory requirements.

23 SECTION 26. Sections 49.4645(a) and (b), Water Code, are
24 amended to read as follows:

25 (a) A district all or part of which is located in Bastrop
26 County, Bexar County, Waller County, Travis County, Williamson
27 County, Harris County, Galveston County, Brazoria County,

1 Montgomery County, or Fort Bend County may issue bonds supported by
2 ad valorem taxes to pay for the development and maintenance of
3 recreational facilities only if the bonds are authorized by a
4 majority vote of the ~~[qualified]~~ voters of the district voting in an
5 election held for that purpose. The outstanding principal amount
6 of bonds, notes, and other obligations issued to finance parks and
7 recreational facilities supported by ad valorem taxes ~~[payable from~~
8 ~~any source]~~ may not exceed an amount equal to one percent of the
9 value of the taxable property in the district or, if supported by
10 contract taxes under Section 49.108, may not exceed an amount equal
11 to one percent of the sum of the value of the taxable property in the
12 districts making payments under the contract as shown by the tax
13 rolls of the central appraisal district at the time of the issuance
14 of the bonds, notes, and other obligations or an amount greater than
15 the estimated cost provided in the park plan under Subsection (b),
16 whichever is smaller. An estimate of the value provided by the
17 central appraisal district may be used to establish the value of the
18 taxable property in the district under this section. The district
19 may not issue bonds supported by ad valorem taxes to pay for the
20 development and maintenance of:

- 21 (1) indoor or outdoor swimming pools; or
22 (2) golf courses.

23 (b) On or before the 10th day before the first day for early
24 voting by personal appearance at ~~[Not later than the 10th day~~
25 ~~before]~~ an election ~~[is]~~ held to authorize the issuance of bonds for
26 the development and maintenance of recreational facilities, the
27 board shall file in the district office for review by the public a

1 park plan covering the land, improvements, facilities, and
2 equipment to be purchased or constructed and their estimated cost,
3 together with maps, plats, drawings, and data fully showing and
4 explaining the park plan. The park plan is not part of the
5 proposition to be voted on, ~~[and the park plan]~~ does not create a
6 contract with the voters, and may be amended at any time after the
7 election held to authorize the issuance of bonds for the
8 development and maintenance of recreational facilities provided
9 under the plan. The estimated cost stated in the amended park plan
10 may not exceed the amount of bonds authorized at that election.

11 SECTION 27. Section 51.072, Water Code, is amended to read
12 as follows:

13 Sec. 51.072. QUALIFICATIONS FOR DIRECTOR. (a) To be
14 qualified for election as a director, a person must:

15 (1) be a resident of the state;

16 (2) ~~[]~~ own land subject to taxation in the district or
17 be a qualified voter in the district; ~~[]~~ and

18 (3) be at least 18 years of age.

19 (b) Section 49.052 does not apply to a district governed by
20 this chapter whose principal purpose is providing water for
21 irrigation.

22 SECTION 28. Section 51.335, Water Code, is amended by
23 amending Subsection (b) and adding Subsection (c) to read as
24 follows:

25 (b) The district shall not usurp functions or duplicate a
26 service already adequately exercised or rendered by the other
27 governmental agency except:

1 (1) under a valid contract with the other governmental
2 agency; or

3 (2) as provided by Subsection (c).

4 (c) The district may finance, develop, and maintain
5 recreational facilities under Subchapter N, Chapter 49, even if
6 similar facilities may be provided by a political subdivision or
7 other governmental entity included wholly or partly in the
8 district.

9 SECTION 29. Section 51.523, Water Code, is amended to read
10 as follows:

11 Sec. 51.523. BALLOTS. The ballot for an election under this
12 subchapter shall be printed to provide for voting for or against
13 substantially the proposition: "Designation of the area, issuance
14 of bonds, [~~and~~] levy of a tax to retire the bonds, and levy of a
15 maintenance tax."

16 SECTION 30. Section 51.527, Water Code, is amended by
17 adding Subsection (c) to read as follows:

18 (c) After bonds issued for the defined area or designated
19 property are fully paid or defeased, the board may declare the
20 defined area dissolved or may repeal the designation of the
21 designated property. After that declaration or repeal, the board
22 shall cease imposing any special taxes authorized under the adopted
23 tax plan on the property located in the defined area or on the
24 designated property.

25 SECTION 31. Section 53.063(a), Water Code, is amended to
26 read as follows:

27 (a) Except as provided by Subsection (b), to be qualified

1 for election as a supervisor, a person must be:

2 (1) a resident of this state;

3 (2) the owner of taxable property in the district or a
4 qualified voter in the district; and

5 (3) at least 18 years of age.

6 SECTION 32. Section 54.016(f), Water Code, is amended to
7 read as follows:

8 (f) A city may provide in its written consent for the
9 inclusion of land in a district that is initially located wholly or
10 partly outside the corporate limits of the city that a contract
11 ("allocation agreement") between the district and the city be
12 entered into prior to the first issue of bonds, notes, warrants, or
13 other obligations of the district. The allocation agreement shall
14 contain the following provisions:

15 (1) a method by which the district shall continue to
16 exist following the annexation of all territory within the district
17 by the city, if the district is initially located outside the
18 corporate limits of the city;

19 (2) an allocation of the taxes or revenues of the
20 district or the city which will assure that, following the date of
21 the inclusion of all the district's territory within the corporate
22 limits of the city, the total annual ad valorem taxes collected by
23 the city and the district from taxable property within the district
24 does not exceed an amount greater than the city's ad valorem tax
25 upon such property;

26 (3) an allocation of governmental services to be
27 provided by the city or the district following the date of the

1 inclusion of all of the district's territory within the corporate
2 limits of the city; and

3 (4) such other terms and conditions as may be deemed
4 appropriate by the city.

5 SECTION 33. Section 54.236, Water Code, is amended to read
6 as follows:

7 Sec. 54.236. STREET OR SECURITY LIGHTING. (a) Subject to
8 the provisions of this section, a district may purchase, install,
9 operate, and maintain street lighting or security lighting within
10 public utility easements or public rights-of-way or property owned
11 by [~~within the boundaries of~~] the district.

12 (b) A district may not issue bonds supported by ad valorem
13 taxes to pay for the purchase, installation, and maintenance of
14 street or security lighting, except as authorized by Section 54.234
15 or Subchapter N, Chapter 49.

16 SECTION 34. Section 54.739, Water Code, is amended to read
17 as follows:

18 Sec. 54.739. SUBSTITUTING LAND OF EQUAL VALUE. After the
19 district is organized and has obtained voter approval for the
20 issuance of, or has sold, bonds payable wholly or partly from ad
21 valorem taxes [~~acquires facilities with which to function for the~~
22 ~~purposes for which it was organized, and votes, issues and sells~~
23 ~~bonds for such purposes~~], land within the district boundaries
24 subject to taxation that does not need or utilize the services of
25 the district may be excluded and other land not within the
26 boundaries of the district may be included within the boundaries of
27 the district without impairment of the security for payment of the

1 bonds or invalidation of any prior bond election, as provided by
2 this section and Sections 54.740 through 54.747.

3 SECTION 35. Section 54.744, Water Code, is amended to read
4 as follows:

5 Sec. 54.744. IMPAIRMENT OF SECURITY. (a) For purposes of
6 the board's consideration of the applications, the lands proposed
7 for inclusion shall be deemed to be sufficient to avoid an
8 impairment of the security for payment of obligations of the
9 district if:

10 (1) according to the most recent tax roll of the
11 district or the most recently certified estimates of taxable value
12 from the chief appraiser of the appropriate appraisal district, the
13 taxable value of such included lands equals or exceeds the taxable
14 value of the excluded lands; and

15 (2) either the estimated costs of providing district
16 facilities and services to such included lands is equal to or less
17 than the estimated costs of providing district facilities and
18 services to the excluded lands or any increased estimated costs of
19 providing district facilities and services to the included land, as
20 determined by the district's engineer, can be amortized at
21 prevailing bond interest rates and maturity schedules and the
22 prevailing debt service tax rate of the district, as determined by
23 the district's professional financial advisor, when applied to the
24 increase in taxable value of the included land over the taxable
25 value of the excluded land. [~~and~~]

26 (b) If the district has any [~~(3) the district's~~]
27 outstanding bonds or contract obligations [~~are~~] payable in whole or

1 in part by a pledge of net revenues from the ownership or operation
2 of the district's facilities at the time the board considers an
3 application, [and] the lands proposed for inclusion shall be deemed
4 to be sufficient to avoid an impairment of the security for payment
5 of obligations of the district if the projected net revenues to be
6 derived from the lands to be included during the succeeding
7 12-month period, as determined by the district's engineer, equals
8 or exceeds the projected net revenues that would otherwise have
9 been derived from the lands to be excluded during the same period.

10 (c) In this section, the taxable value of included land
11 means the market value of the land if, before or contemporaneously
12 with the inclusion of the land in the district, the owner of the
13 land waives the right to special appraisal of the land as to the
14 district under Section 23.20, Tax Code.

15 SECTION 36. Section 49.103(g), Water Code, is repealed.

16 SECTION 37. The legislature finds that an agreement entered
17 into before September 1, 2011, by a municipality and a municipal
18 utility district is an allocation agreement only if:

19 (1) the district is initially located wholly or partly
20 outside the corporate limits of the municipality;

21 (2) the agreement strictly complies with the
22 requirements of Section 54.016(f), Water Code, as that section
23 existed immediately before the effective date of this Act; and

24 (3) the agreement is specifically designated by the
25 parties to the agreement as an "allocation agreement" under Section
26 54.016(f), Water Code.

27 SECTION 38. Not later than December 1, 2011, the Texas

1 Commission on Environmental Quality shall adopt any rules or
2 amendments to existing rules necessary to implement Section
3 49.4641, Water Code, as added by this Act.

4 SECTION 39. (a) Except as provided by Subsection (b) of
5 this section, this Act takes effect September 1, 2011.

6 (b) Sections 54.739 and 54.744, Water Code, as amended by
7 this Act, take effect immediately if this Act receives a vote of
8 two-thirds of all the members elected to each house, as provided by
9 Section 39, Article III, Texas Constitution; otherwise, those
10 sections take effect September 1, 2011.