

1-1 By: Callegari (Senate Sponsor - Fraser) H.B. No. 725  
1-2 (In the Senate - Received from the House April 18, 2011;  
1-3 April 20, 2011, read first time and referred to Committee on  
1-4 Natural Resources; May 16, 2011, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 8, Nays  
1-6 0; May 16, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 725 By: Fraser

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the operation, powers, and duties of certain water  
1-11 districts.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 388.005, Health and Safety Code, is  
1-14 amended by adding Subsections (g) and (h) to read as follows:

1-15 (g) Except as provided by Subsection (h), this section does  
1-16 not apply to the electricity consumption of a district as defined by  
1-17 Section 36.001 or 49.001, Water Code, that relates to the operation  
1-18 and maintenance of facilities or improvements for:

1-19 (1) wastewater collection and treatment;

1-20 (2) water supply and distribution; or

1-21 (3) storm water diversion, detention, or pumping.

1-22 (h) At least once every five years, a political subdivision  
1-23 that is a district as defined by Section 36.001 or 49.001, Water  
1-24 Code, shall for district facilities described by Subsection (g):

1-25 (1) evaluate the consumption of electricity;

1-26 (2) establish goals to reduce the consumption of  
1-27 electricity; and

1-28 (3) identify and implement cost-effective energy  
1-29 efficiency measures to reduce the consumption of electricity.

1-30 SECTION 2. Section 43.0751(a)(1), Local Government Code, is  
1-31 amended to read as follows:

1-32 (1) "District" means a conservation and reclamation  
1-33 ~~[water control and improvement]~~ district ~~[or a municipal utility~~  
1-34 ~~district created or]~~ operating under Chapter 49 ~~[51 or 54]~~, Water  
1-35 Code. The term does not include a special utility district  
1-36 operating under Chapter 65, Water Code, or a groundwater  
1-37 conservation district operating under Chapter 36, Water Code.

1-38 SECTION 3. Section 43.0751, Local Government Code, is  
1-39 amended by adding Subsection (r) to read as follows:

1-40 (r) To be annexed for limited purposes under this section,  
1-41 an area must be:

1-42 (1) in the municipality's extraterritorial  
1-43 jurisdiction; and

1-44 (2) contiguous to the corporate or limited purpose  
1-45 boundaries of the municipality, unless the district consents to  
1-46 noncontiguous annexation pursuant to a strategic partnership  
1-47 agreement with the municipality.

1-48 SECTION 4. Section 375.161, Local Government Code, is  
1-49 amended to read as follows:

1-50 Sec. 375.161. CERTAIN RESIDENTIAL PROPERTY EXEMPT.

1-51 (a) The board may not impose an impact fee, assessment, tax, or  
1-52 other requirement for payment, construction, alteration, or  
1-53 dedication under this chapter on single-family detached  
1-54 residential property, duplexes, triplexes, and quadraplexes.

1-55 (b) This section does not apply to an impact fee,  
1-56 assessment, tax, or other requirement for payment for water, sewer,  
1-57 drainage, reclamation, flood control, road, or park and  
1-58 recreational services or improvements of a district operating under  
1-59 this chapter that provides, or proposes to provide, those services  
1-60 or improvements.

1-61 SECTION 5. Section 552.014, Local Government Code, is  
1-62 amended to read as follows:

1-63 Sec. 552.014. CONTRACTS WITH WATER DISTRICTS OR NONPROFIT

2-1 CORPORATIONS. (a) In this section:  
 2-2           (1) "Project" means a water supply or treatment  
 2-3 system, a water distribution system, a sanitary sewage collection  
 2-4 or treatment system, works or improvements necessary for drainage  
 2-5 of land, recreational facilities, roads and improvements in aid of  
 2-6 roads, or facilities to provide firefighting services.  
 2-7           (2) "Water district" [~~,"water district"~~] means a  
 2-8 district created under Article XVI, Section 59, of the Texas  
 2-9 Constitution.

2-10           (b) A municipality may enter into a contract with a water  
 2-11 district or with a corporation organized to be operated without  
 2-12 profit under which the district or corporation will acquire for the  
 2-13 benefit of and convey to the municipality, either separately or  
 2-14 together, one or more projects [~~a water supply or treatment system,~~  
 2-15 ~~a water distribution system, a sanitary sewage collection or~~  
 2-16 ~~treatment system, or works or improvements necessary for drainage~~  
 2-17 ~~of land in the municipality~~]. In connection with the acquisition,  
 2-18 the district or corporation shall improve, enlarge, or extend the  
 2-19 existing municipal facilities as provided by the contract.

2-20           (c) If the contract provides that the municipality assumes  
 2-21 ownership of the project [~~water, sewer, or drainage system~~] on  
 2-22 completion of construction or at the time that all debt incurred by  
 2-23 the district or corporation in the acquisition, construction,  
 2-24 improvement, or extension of the project [~~system~~] is paid in full,  
 2-25 the municipality may make payments to the district or corporation  
 2-26 for project [~~water, sewer, or drainage~~] services to part or all of  
 2-27 the residents of the municipality. The contract may provide for  
 2-28 purchase of the project [~~system~~] by the municipality through  
 2-29 periodic payments to the district or corporation in amounts that,  
 2-30 together with the net income of the district or corporation, are  
 2-31 sufficient to pay the principal of and interest on the bonds of the  
 2-32 district or corporation as they become due. The contract may  
 2-33 provide:

2-34                     (1) that any payments due under this section are  
 2-35 payable from and are secured by a pledge of a specified part of the  
 2-36 revenues of the municipality, including revenues from municipal  
 2-37 sales and use taxes [~~municipal water system, sewer system, or~~  
 2-38 ~~drainage system~~];

2-39                     (2) for the levying of a tax to make payments due under  
 2-40 this section; or

2-41                     (3) that the payments due under this section be made  
 2-42 from a combination of revenues [~~from the system~~] and taxes.

2-43           (d) The contract may provide that the district or  
 2-44 corporation may use the streets, alleys, and other public ways and  
 2-45 places of the municipality for project [~~water, sewer, or drainage~~]  
 2-46 purposes for a period that ends at the time the indebtedness of the  
 2-47 district or corporation is paid in full and the municipality  
 2-48 acquires title to the project [~~system~~] in accordance with this  
 2-49 section.

2-50           (e) The contract may provide for the operation of the  
 2-51 project [~~system~~] by the municipality, and, if so authorized, the  
 2-52 municipality may operate the project [~~system~~].

2-53           (f) A contract under this section must be authorized by a  
 2-54 majority vote of the governing body of the municipality.

2-55           (g) This section does not authorize a water district or  
 2-56 corporation described by Subsection (b) to participate in a project  
 2-57 that the water district or corporation is not authorized to  
 2-58 participate in under other law.

2-59           SECTION 6. Section 13.247, Water Code, is amended by adding  
 2-60 Subsections (a-1) and (a-2) to read as follows:

2-61                     (a-1) Subsection (a-2) applies only to a municipality that:  
 2-62                             (1) has a population of more than 95,000 and is in a  
 2-63 county that has a population of more than 200,000 and borders Lake  
 2-64 Palestine;  
 2-65                             (2) has a population of more than 30,000 and is in a  
 2-66 county that has a population of less than 90,000 and borders Lake  
 2-67 Ray Hubbard;  
 2-68                             (3) has a population of more than 4,500 and that:  
 2-69                                     (A) borders Lake Lyndon B. Johnson; and

3-1 (B) is located in a county that has a population  
 3-2 of less than 45,000 and in which at least one state park and one  
 3-3 national wildlife refuge are located; or  
 3-4 (4) has a population of less than 3,000 and is located  
 3-5 wholly or partly in a county with a population of more than 1.7  
 3-6 million and that is adjacent to a county with a population of more  
 3-7 than two million.

3-8 (a-2) Notwithstanding Subsection (a), a municipality  
 3-9 described by Subsection (a-1) may provide retail water and sewer  
 3-10 utility service in an area certificated to another retail public  
 3-11 utility without first having obtained from the commission a  
 3-12 certificate of public convenience and necessity that includes the  
 3-13 area to be served if:

3-14 (1) the area is located within the boundaries of the  
 3-15 municipality; and  
 3-16 (2) the municipality provides notice to the commission  
 3-17 and the other retail public utility before the municipality begins  
 3-18 providing service to the area.

3-19 SECTION 7. Section 36.0151, Water Code, is amended by  
 3-20 adding Subsections (c) and (d) to read as follows:

3-21 (c) The commission may not create a groundwater  
 3-22 conservation district under this section in a county:

3-23 (1) in which the annual amount of surface water used is  
 3-24 more than 50 times the annual amount of groundwater produced;  
 3-25 (2) that is located in a priority groundwater  
 3-26 management area; and  
 3-27 (3) that has a population greater than 2.3 million.

3-28 (d) To the extent of a conflict between this section and  
 3-29 Section 35.012, this section prevails.

3-30 SECTION 8. Section 49.059, Water Code, is amended to read as  
 3-31 follows:

3-32 Sec. 49.059. [~~DISQUALIFICATION OF~~] TAX ASSESSOR AND  
 3-33 COLLECTOR. (a) The district may employ or contract with any  
 3-34 person to serve as its tax assessor and collector who is:

3-35 (1) an individual certified as a registered Texas  
 3-36 assessor-collector; or  
 3-37 (2) a firm, organization, association, partnership,  
 3-38 corporation, or other legal entity if an individual certified as a  
 3-39 registered Texas assessor-collector owns an interest in or is  
 3-40 employed by the firm, organization, association, partnership,  
 3-41 corporation, or other legal entity.

3-42 (b) A tax assessor and collector employed or contracted for  
 3-43 under this section is not required to be a natural person.

3-44 (c) A firm, organization, association, partnership,  
 3-45 corporation, or other legal entity serving as district tax assessor  
 3-46 and collector shall give a bond as required by Section 49.057 for a  
 3-47 natural person.

3-48 (d) No person may serve as tax assessor and collector of a  
 3-49 district providing potable water or sewer utility services to  
 3-50 household users if that person:

3-51 (1) is a natural person related within the third  
 3-52 degree of affinity or consanguinity to any developer of property in  
 3-53 the district, a member of the board, or the manager, engineer, or  
 3-54 attorney for the district;

3-55 (2) is or was within two years immediately preceding  
 3-56 the assumption of assessment and collection duties with the  
 3-57 district an employee of any developer of property in the district or  
 3-58 any director, manager, engineer, or attorney for the district;

3-59 (3) owns an interest in or is employed by any  
 3-60 corporation organized for the purpose of tax assessment and  
 3-61 collection services, a substantial portion of the stock of which is  
 3-62 owned by a developer of property within the district or any  
 3-63 director, manager, engineer, or attorney for the district; or  
 3-64 (4) is directly or through a corporation developing  
 3-65 land in the district or is a director, engineer, or attorney for the  
 3-66 district.

3-67 (e) [~~(b)~~] Within 60 days after the board determines a  
 3-68 relationship or employment exists which constitutes a  
 3-69 disqualification under Subsection (d) [~~(a)~~], it shall replace the

4-1 person serving as tax assessor and collector with a person who would  
4-2 not be disqualified.

4-3 (f) [~~(e)~~] Any person who wilfully violates the provisions  
4-4 of Subsection (d) [~~(a)~~] is guilty of a misdemeanor and on conviction  
4-5 shall be fined not less than \$100 nor more than \$1,000.

4-6 (g) [~~(d)~~] As used in this section, "developer of property in  
4-7 the district" has the same meaning as in Section 49.052(d).

4-8 SECTION 9. Section 49.063, Water Code, is amended to read as  
4-9 follows:

4-10 Sec. 49.063. NOTICE OF MEETINGS. (a) Notice of meetings  
4-11 of the board shall be given as set forth in the open meetings law,  
4-12 Chapter 551, Government Code, except that if a district does not  
4-13 have a meeting place within the district, the district shall post  
4-14 notice of its meeting at a public place within the district  
4-15 specified by the board in a written resolution, rather than at its  
4-16 administrative office. The board shall specify such public place  
4-17 to be a bulletin board or other place within the district which is  
4-18 reasonably available to the public.

4-19 (b) The validity of an action taken at a board meeting is not  
4-20 affected by:

4-21 (1) [~~Neither~~] failure to provide notice of the meeting  
4-22 if the meeting is a regular meeting;

4-23 (2) [~~nor~~] an insubstantial defect in notice of the  
4-24 [any] meeting; or

4-25 (3) failure of a county clerk to timely or properly  
4-26 post or maintain public access to a notice of the meeting if notice  
4-27 of the meeting is furnished to the county clerk in sufficient time  
4-28 for posting under Section 551.043(a) or 551.045, Government Code  
4-29 [shall affect the validity of any action taken at the meeting].

4-30 SECTION 10. Sections 49.102(a), (b), (c), and (h), Water  
4-31 Code, are amended to read as follows:

4-32 (a) Before issuing any bonds or other obligations, an  
4-33 election shall be held within the boundaries of the proposed  
4-34 district on a uniform election date provided by Section 41.001,  
4-35 Election Code, to determine if the proposed district shall be  
4-36 established and, if the directors of the district are required by  
4-37 law to be elected, to elect permanent directors.

4-38 (b) Notice of a confirmation or director election shall  
4-39 state the day and place or places for holding the election, the  
4-40 propositions to be voted on, and, if applicable, the number of  
4-41 directors to be voted on.

4-42 (c) The ballots for a confirmation election shall be printed  
4-43 to provide for voting "For District" and "Against District."  
4-44 Ballots for a directors election shall provide the names of the  
4-45 persons appointed by the governing body who qualified and are  
4-46 serving as temporary directors at the time the election is called.  
4-47 If the district has received an application by a write-in  
4-48 candidate, the [~~The~~] ballots shall also have blank places after the  
4-49 names of the temporary directors in which a voter may write the  
4-50 names of any candidates appearing on the list of write-in  
4-51 candidates required by Section 146.031, Election Code [~~other~~  
4-52 persons for directors].

4-53 (h) Unless otherwise agreed, the elected directors shall  
4-54 decide the initial terms of office by lot, with a simple majority of  
4-55 the elected directors serving until the second succeeding directors  
4-56 election and the remaining elected directors serving until the next  
4-57 directors election.

4-58 SECTION 11. Sections 49.103(a) and (b), Water Code, are  
4-59 amended to read as follows:

4-60 (a) Except as provided by Section 49.102, the members of the  
4-61 board of a district shall serve staggered [~~for~~] four-year terms.

4-62 (b) After confirmation of a district, an [~~An~~] election shall  
4-63 be held on the uniform election date, provided by Section 41.001,  
4-64 [established by the] Election Code, in May of each even-numbered  
4-65 year to elect the appropriate number of directors.

4-66 SECTION 12. Subchapter D, Chapter 49, Water Code, is  
4-67 amended by adding Section 49.1045 to read as follows:

4-68 Sec. 49.1045. CERTIFICATION OF ELECTION RESULTS IN LESS  
4-69 POPULOUS DISTRICTS. (a) This section applies only to a district

5-1 that:

5-2 (1) has 10 or fewer registered voters; and

5-3 (2) holds an election jointly with a county in which  
5-4 the district is wholly or partly located.

5-5 (b) A district may provide for an inquiry into and  
5-6 certification of the voting results of an election under this  
5-7 section if:

5-8 (1) the election results indicate that the number of  
5-9 votes cast in the election was greater than the number of registered  
5-10 voters in the district;

5-11 (2) the board determines that the election results are  
5-12 likely to be disputed in court; and

5-13 (3) the board can determine from the official list of  
5-14 registered voters prepared by the county voter registrar or county  
5-15 elections administrator for the district election which voters were  
5-16 qualified to vote in the district election and can determine from  
5-17 the signature roster from the joint election who voted in the joint  
5-18 election.

5-19 (c) To certify the district votes, the board by rule shall  
5-20 adopt a procedure to determine for each person who signed the  
5-21 signature roster as a voter in the joint election:

5-22 (1) whether the person's address on the day of the  
5-23 election was in the district; and

5-24 (2) how the person voted in the district election.

5-25 (d) The certified votes are the official election results.

5-26 (e) Certification of the results under this section does not  
5-27 preclude the filing of an election contest.

5-28 SECTION 13. Sections 49.105(c) and (d), Water Code, are  
5-29 amended to read as follows:

5-30 (c) If the number of directors is reduced to fewer than a  
5-31 majority or if a vacancy continues beyond the 90th day after the  
5-32 date the vacancy occurs, the vacancy or vacancies may ~~shall~~ be  
5-33 filled by appointment by the commission if the district is required  
5-34 by Section 49.181 to obtain commission approval of its bonds or by  
5-35 the county commissioners court if the district was created by the  
5-36 county commissioners court, regardless of whether a petition has  
5-37 been presented to the board under Subsection (b). An appointed  
5-38 director shall serve for the unexpired term of the director he or  
5-39 she is replacing.

5-40 (d) In the event of a failure to elect one or more members of  
5-41 the board of a district resulting from the absence of, or failure to  
5-42 vote by, the qualified voters in an election held by the district,  
5-43 the current members of the board or temporary board holding the  
5-44 positions not filled at such election shall be deemed to have been  
5-45 elected ~~re-elected~~ and shall serve an additional term of office,  
5-46 or, in the case of a temporary board member deemed elected under  
5-47 this subsection, the initial term of office.

5-48 SECTION 14. Section 49.108, Water Code, is amended by  
5-49 adding Subsections (g), (h), and (i) to read as follows:

5-50 (g) On or before the first day for early voting by personal  
5-51 appearance at an election held to authorize a contract, a  
5-52 substantially final form of the contract must be filed in the office  
5-53 of the district and must be open to inspection by the public. The  
5-54 contract is not required to be attached as an exhibit to the order  
5-55 calling the election to authorize the contract.

5-56 (h) A single contract may contain multiple purposes or  
5-57 provisions for multiple facilities authorized by one or more  
5-58 constitutional provisions. The contract may generally describe the  
5-59 facilities to be acquired or financed by the district without  
5-60 reference to specific constitutional provisions. A contract  
5-61 described by this subsection may be submitted for approval in a  
5-62 single proposition at an election.

5-63 (i) A contract between districts to provide facilities or  
5-64 services is not required to specify the maximum amount of bonds or  
5-65 expenditures authorized under the contract if:

5-66 (1) the contract provides that the service area cannot  
5-67 be enlarged without the consent of at least two-thirds of the boards  
5-68 of directors of the districts that are:

5-69 (A) included in the service area as proposed to

6-1 be enlarged; or  
 6-2 (B) served by the facilities or services provided  
 6-3 in the contract;  
 6-4 (2) the contract provides that bonds or expenditures,  
 6-5 payable wholly or partly from contract taxes, are issued or made:  
 6-6 (A) on an emergency basis; or  
 6-7 (B) to purchase, construct, acquire, own,  
 6-8 operate, repair, improve, or extend services or facilities  
 6-9 necessary to comply with changes in applicable regulatory  
 6-10 requirements; or  
 6-11 (3) the contract provides that the bonds or  
 6-12 expenditures require prior approval by any district that is  
 6-13 obligated to pay debt service on those bonds or to pay for those  
 6-14 expenditures wholly or partly with contract taxes.

6-15 SECTION 15. Subchapter D, Chapter 49, Water Code, is  
 6-16 amended by adding Sections 49.109, 49.110, 49.111, 49.112, and  
 6-17 49.113 to read as follows:

6-18 Sec. 49.109. AGENT DURING ELECTION PERIOD. The board may  
 6-19 appoint a person, including a district officer, employee, or  
 6-20 consultant, to serve as the district's agent under Section 31.123,  
 6-21 Election Code.

6-22 Sec. 49.110. ELECTION JUDGE. (a) The notice requirements  
 6-23 for the appointment of a presiding election judge under Section  
 6-24 32.009, Election Code, do not apply to an election held by a  
 6-25 district.

6-26 (b) To serve as an election judge in an election held by a  
 6-27 district, a person must be a registered voter of the county in which  
 6-28 the district is wholly or partly located. To the extent of any  
 6-29 conflict with Section 32.051, Election Code, this section controls.

6-30 Sec. 49.111. EXEMPTIONS FROM USE OF ACCESSIBLE VOTING  
 6-31 SYSTEMS. (a) Notwithstanding Sections 61.012 and 61.013,  
 6-32 Election Code, a district is exempt from the acquisition, lease, or  
 6-33 use of an electronic voting system for an election if:

6-34 (1) the election is a confirmation election or an  
 6-35 election held jointly with a confirmation election on the same date  
 6-36 and in conjunction with the confirmation election, except for an  
 6-37 election in which a federal office appears on the ballot;

6-38 (2) the most recently scheduled district directors'  
 6-39 election was not held, as provided by Section 2.053(b), Election  
 6-40 Code; or

6-41 (3) fewer than 250 voters voted at the most recently  
 6-42 held district directors' election.

6-43 (b) A district eligible for the exemption under Subsection  
 6-44 (a) must publish notice in a newspaper of general circulation in an  
 6-45 area that includes the district or mail notice to each voter in the  
 6-46 district regarding the district's intention to hold an election  
 6-47 without providing a voting station that meets the requirements for  
 6-48 accessibility under 42 U.S.C. Section 15481(a)(3) on election day  
 6-49 and during the period for early voting by personal appearance. The  
 6-50 notice must be published or mailed not later than the later of:

6-51 (1) the 75th day before the date of the election; or

6-52 (2) the date on which the district adopts the order  
 6-53 calling the election.

6-54 (c) The notice required by Subsection (b) must:

6-55 (1) provide that any voter in the district may request  
 6-56 the use of a voting station that meets the accessibility  
 6-57 requirements for voting by a person with a disability; and

6-58 (2) provide information on how to submit such a  
 6-59 request.

6-60 (d) The district shall comply with a request for an  
 6-61 accessible voting station if the request is received not later than  
 6-62 the 45th day before the date of the election.

6-63 Sec. 49.112. CANCELLATION OF ELECTION; REMOVAL OF BALLOT  
 6-64 MEASURE. Before the first day of early voting by personal  
 6-65 appearance, the board by order or resolution may cancel an election  
 6-66 called at the discretion of the district or may remove from the  
 6-67 ballot a measure included at the discretion of the district. A copy  
 6-68 of the order or resolution must be posted during the period for  
 6-69 early voting by personal appearance and on election day at each

7-1 polling place that is used or that would have been used in the  
 7-2 election.

7-3 Sec. 49.113. NOTICE FOR FILING FOR PLACE ON BALLOT. A  
 7-4 notice required by Section 141.040, Election Code, must be posted  
 7-5 at the district's administrative office in the district or at the  
 7-6 public place established by the district under Section 49.063 of  
 7-7 this chapter not later than the 30th day before the deadline for a  
 7-8 candidate to file an application for a place on the ballot of a  
 7-9 district directors' election.

7-10 SECTION 16. Section 49.151(c), Water Code, is amended to  
 7-11 read as follows:

7-12 (c) The board may allow disbursements of district money to  
 7-13 be transferred by federal reserve wire system or by electronic  
 7-14 means. The board by resolution may allow the wire or electronic  
 7-15 transfers to accounts in the name of the district or accounts not in  
 7-16 the name of the district.

7-17 SECTION 17. Sections 49.154(a) and (c), Water Code, are  
 7-18 amended to read as follows:

7-19 (a) The board may declare an emergency in the matter of  
 7-20 funds not being available to pay principal of and interest on any  
 7-21 bonds of the district payable in whole or in part from taxes or to  
 7-22 meet any other needs of the district and may issue [~~negotiable~~] tax  
 7-23 anticipation notes or [~~negotiable~~] bond anticipation notes to  
 7-24 borrow the money needed by the district without advertising or  
 7-25 giving notice of the sale. A district's bond anticipation notes or  
 7-26 tax anticipation notes are negotiable instruments within the  
 7-27 meaning and purposes of the Business & Commerce Code  
 7-28 notwithstanding any provision to the contrary in that code. Bond  
 7-29 anticipation notes and tax anticipation notes shall mature within  
 7-30 one year of their date.

7-31 (c) Bond anticipation notes may be issued for any purpose  
 7-32 for which bonds of the district may be issued [~~have previously been~~  
 7-33 ~~voted~~] or [~~may be issued~~] for the purpose of refunding previously  
 7-34 issued bond anticipation notes. A district may covenant with the  
 7-35 purchasers of the bond anticipation notes that the district will  
 7-36 use the proceeds of sale of any bonds in the process of issuance for  
 7-37 the purpose of refunding the bond anticipation notes, in which case  
 7-38 the board will be required to use the proceeds received from sale of  
 7-39 the bonds in the process of issuance to pay principal, interest, or  
 7-40 redemption price on the bond anticipation notes.

7-41 SECTION 18. Section 49.181(a), Water Code, is amended to  
 7-42 read as follows:

7-43 (a) A district may not issue bonds to finance a project for  
 7-44 which the commission has adopted rules requiring review and  
 7-45 approval unless the commission determines that the project [~~to be~~  
 7-46 financed by the bonds] is feasible and issues an order approving the  
 7-47 issuance of the bonds. This section does not apply to:

7-48 (1) refunding bonds if the commission issued an order  
 7-49 approving the issuance of the bonds or notes that originally  
 7-50 financed the project;

7-51 (2) refunding bonds that are issued by a district  
 7-52 under an agreement between the district and a municipality allowing  
 7-53 the issuance of the district's bonds to refund bonds issued by the  
 7-54 municipality to pay the cost of financing facilities;

7-55 (3) bonds issued to and approved by the Farmers Home  
 7-56 Administration, the United States Department of Agriculture, the  
 7-57 North American Development Bank, or the Texas Water Development  
 7-58 Board; or

7-59 (4) refunding bonds issued to refund bonds described  
 7-60 by Subdivision (3).

7-61 SECTION 19. Section 49.194, Water Code, is amended by  
 7-62 amending Subsections (a), (b), and (c) and adding Subsection (h) to  
 7-63 read as follows:

7-64 (a) Except as provided by Subsection (h), after [~~After~~] the  
 7-65 board has approved the audit report, it shall submit a copy of the  
 7-66 report to the executive director for filing within 135 days after  
 7-67 the close of the district's fiscal year.

7-68 (b) Except as provided by Subsection (h), if [~~If~~] the board  
 7-69 refuses to approve the annual audit report, the board shall submit a

8-1 copy of the report to the executive director for filing within 135  
8-2 days after the close of the district's fiscal year, accompanied by a  
8-3 statement from the board explaining the reasons for its failure to  
8-4 approve the report.

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

8-9 (h) A special water authority shall submit a copy of the  
8-10 audit report to the executive director for filing not later than the  
8-11 160th day after the date the special water authority's fiscal year  
8-12 ends.

8-13 SECTION 20. Section 49.212, Water Code, is amended by  
8-14 amending Subsection (d) and adding Subsections (d-1) and (d-2) to  
8-15 read as follows:

8-16 (d) Notwithstanding any provision of law to the contrary, a  
8-17 district that charges a fee that is an impact fee as described in  
8-18 Section 395.001(4), Local Government Code, must comply with Chapter  
8-19 395, Local Government Code. A charge or fee is not an impact fee  
8-20 under that chapter if:

8-21 (1) the charge or fee is imposed by a district for  
8-22 construction, installation, or inspection of a tap or connection to  
8-23 district water, sanitary sewer, or drainage facilities, including  
8-24 all necessary service lines and meters, for capacity in storm water  
8-25 detention or retention facilities and related storm water  
8-26 conveyances, or for wholesale facilities that serve such water,  
8-27 sanitary sewer, ~~or~~ drainage, or storm water detention or  
8-28 retention facilities; and

8-29 (2) the charge or fee:

8-30 (A) [~~that (i)~~] does not exceed three times the  
8-31 actual [~~and reasonable~~] costs to the district for such tap or  
8-32 connection;

8-33 (B) [~~, (ii)~~] if made to a nontaxable entity for  
8-34 retail or wholesale service, does not exceed the actual costs to the  
8-35 district for such work and for all facilities that are necessary to  
8-36 provide district services to such entity and that are financed or  
8-37 are to be financed in whole or in part by tax-supported or revenue  
8-38 bonds of the district; ~~or~~

8-39 (C) is [~~(iii) if~~] made by a district for retail or  
8-40 wholesale service on land that at the time of platting was not being  
8-41 provided with water, ~~or~~ wastewater, drainage, or storm water  
8-42 detention or retention service by the district [~~, shall not be~~  
8-43 deemed to be an impact fee under Chapter 395, Local Government  
8-44 Code].

8-45 (d-1) Actual costs under Subsection (d), as determined by  
8-46 the board in its reasonable discretion, may include nonconstruction  
8-47 expenses attributable to the design, permitting, financing, and  
8-48 construction of those facilities, and reasonable interest on those  
8-49 costs calculated at a rate not to exceed the net effective interest  
8-50 rate on any district bonds issued to finance the facilities.

8-51 (d-2) A district may pledge the revenues of the district's  
8-52 utility system to pay the principal of or interest on bonds issued  
8-53 to construct the capital improvements for which a fee is ~~was~~  
8-54 imposed under Subsection (d) [~~this subsection~~], and money received  
8-55 from the fees shall be considered revenues of the district's  
8-56 utility system for purposes of the district's bond covenants.

8-57 SECTION 21. Section 49.2121(b), Water Code, is amended to  
8-58 read as follows:

8-59 (b) A district may:

8-60 (1) accept a credit card for the payment of any fees  
8-61 and charges imposed by the district;

8-62 (2) collect a fee [~~, not to exceed five percent of the~~  
8-63 amount of the fee or charge being paid,] that is reasonably related  
8-64 to the expense incurred by the district in processing the payment by  
8-65 credit card; and

8-66 (3) collect a service charge for the expense incurred  
8-67 by the district in collecting the original fee or charge if the  
8-68 payment by credit card is not honored by the credit card company on  
8-69 which the funds are drawn.



9-1 SECTION 22. Section 49.216, Water Code, is amended by  
 9-2 amending Subsection (e) and adding Subsection (f) to read as  
 9-3 follows:

9-4 (e) Any peace officer who is directly employed by a  
 9-5 district, before beginning to perform any duties and at the time of  
 9-6 appointment, must take an oath and execute a bond conditioned on  
 9-7 faithful performance of such officer's duties in the amount of  
 9-8 \$1,000 payable to the district. The oath and the bond shall be  
 9-9 filed in the district office.

9-10 (f) A peace officer contracted for by the district,  
 9-11 individually or through a county, sheriff, constable, or  
 9-12 municipality, is an independent contractor, and the district is  
 9-13 responsible for the acts or omissions of the peace officer only to  
 9-14 the extent provided by law for other independent contractors.

9-15 SECTION 23. Sections 49.273(d) and (e), Water Code, are  
 9-16 amended to read as follows:

9-17 (d) For contracts over \$75,000 [~~\$50,000~~], the board shall  
 9-18 advertise the letting of the contract, including the general  
 9-19 conditions, time, and place of opening of sealed bids. The notice  
 9-20 must [~~shall~~] be published in one or more newspapers circulated in  
 9-21 each county in which [~~part of~~] the district is located. [~~If one~~  
 9-22 ~~newspaper meets both of these requirements, publication in such~~  
 9-23 ~~newspaper is sufficient.~~] If there are more than four counties in  
 9-24 the district, notice may be published in any newspaper with general  
 9-25 circulation in the district. The notice must [~~shall~~] be published  
 9-26 once a week for two consecutive weeks before the date that the bids  
 9-27 are opened, and the first publication must [~~shall~~] be not later than  
 9-28 the 14th [~~21st~~] day before the date of the opening of the sealed  
 9-29 bids.

9-30 (e) For contracts over \$25,000 but not more than \$75,000  
 9-31 [~~\$50,000~~], the board shall solicit written competitive bids on  
 9-32 uniform written specifications from at least three bidders.

9-33 SECTION 24. Section 49.351, Water Code, is amended by  
 9-34 amending Subsections (a), (b), (c), (f), (i), and (l) and adding  
 9-35 Subsection (m) to read as follows:

9-36 (a) A district providing potable water or sewer service to  
 9-37 household users may, separately or jointly with another district,  
 9-38 municipality, or other political subdivision, establish, operate,  
 9-39 and maintain, finance with ad valorem taxes, mandatory fees, or  
 9-40 voluntary contributions, and issue bonds for a fire department to  
 9-41 perform all fire-fighting services within the district as provided  
 9-42 in this subchapter and may provide for [~~issue bonds or impose a~~  
 9-43 ~~mandatory fee, with voter approval, for financing a plan approved~~  
 9-44 ~~in accordance with this section, including~~] the construction and  
 9-45 purchase of necessary buildings, facilities, land, and equipment  
 9-46 and the provision of an adequate water supply.

9-47 (b) After complying with the requirements of this section  
 9-48 [~~approval of the district electors of a plan to operate, jointly~~  
 9-49 ~~operate, or jointly fund the operation of a fire department, and~~  
 9-50 ~~after complying with Subsections (g), (h), and (i)~~], the district  
 9-51 or districts shall provide an adequate system and water supply for  
 9-52 fire-fighting purposes, may purchase necessary land, may construct  
 9-53 and purchase necessary buildings, facilities, and equipment, and  
 9-54 may employ or contract with a fire department to employ all  
 9-55 necessary personnel including supervisory personnel to operate the  
 9-56 fire department.

9-57 (c) For [~~Bonds for~~] financing a plan approved in accordance  
 9-58 with this section, bonds and ad valorem taxes must [~~shall~~] be  
 9-59 authorized and may be issued or imposed [~~, and a district shall be~~  
 9-60 ~~authorized to levy a tax to pay the principal of and interest on~~  
 9-61 ~~such bonds,~~] as provided by law for the authorization and issuance  
 9-62 of other bonds and the authorization and imposition of other ad  
 9-63 valorem taxes of the district.

9-64 (f) Before a district imposes an ad valorem tax or issues  
 9-65 bonds payable wholly or partly from ad valorem taxes to finance the  
 9-66 establishment of [~~establishes~~] a fire department, contracts to  
 9-67 operate a joint fire department, or contracts with another person  
 9-68 to perform fire-fighting services within the district, the district  
 9-69 must comply with [~~the provisions of~~] Subsections (g), (h), and (i).

10-1 A district that funds fire-fighting services with revenue,  
 10-2 including mandatory fees or voluntary contributions, is not  
 10-3 required to comply with Subsections (g), (h), and (i).

10-4 (i) After approval of a plan by the commission, the district  
 10-5 shall hold an [submit to the electors of the district at the]  
 10-6 election to approve the plan, approve bonds payable wholly or  
 10-7 partly from ad valorem taxes, and [or to] impose ad valorem taxes [a  
 10-8 mandatory fee] for financing the plan. The election [or if no  
 10-9 bonds or fees are to be approved, at an election called for approval  
 10-10 of the plan, which] may be held in conjunction with an election  
 10-11 required by Section 49.102[, the proposition of whether or not the  
 10-12 plan should be implemented or entered into by the district]. [The  
 10-13 ballots at the election shall be printed, as applicable, to provide  
 10-14 for voting for or against the proposition: "The implementation of  
 10-15 the plan for (operation/joint operation) of a fire department"; or  
 10-16 "The plan and contract to provide fire-fighting services for the  
 10-17 district."]

10-18 (1) A [Notwithstanding the requirements of Subsections  
 10-19 (a)-(j), a] district providing potable water or sewer service to  
 10-20 household users may, as part of its billing process, collect from  
 10-21 its customers a voluntary contribution on behalf of organizations  
 10-22 providing fire-fighting services to the district. A district that  
 10-23 chooses to collect a voluntary contribution under this subsection  
 10-24 must give reasonable notice to its customers that the contribution  
 10-25 is voluntary. Water and sewer service may not be terminated as a  
 10-26 result of failure to pay the voluntary contribution.

10-27 (m) If a customer makes a partial payment of a district bill  
 10-28 for water or sewer service and includes with the payment a voluntary  
 10-29 contribution for fire-fighting services under Subsection (l), the  
 10-30 district shall apply the voluntary contribution first to the bill  
 10-31 for water or sewer service, including any interest or penalties  
 10-32 imposed. The district shall use any amount remaining for  
 10-33 fire-fighting services.

10-34 SECTION 25. Section 49.462(1), Water Code, is amended to  
 10-35 read as follows:

10-36 (1) "Recreational facilities" means parks,  
 10-37 landscaping, parkways, greenbelts, sidewalks, trails, public  
 10-38 right-of-way beautification projects, and recreational equipment  
 10-39 and facilities. The term includes associated street and security  
 10-40 lighting. The term does not include a minor improvement or  
 10-41 beautification project to land acquired or to be acquired as part of  
 10-42 a district's water, sewer, or drainage facilities.

10-43 SECTION 26. Subchapter N, Chapter 49, Water Code, is  
 10-44 amended by adding Section 49.4641 to read as follows:

10-45 Sec. 49.4641. RECREATIONAL FACILITIES ON SITES ACQUIRED FOR  
 10-46 WATER, SEWER, OR DRAINAGE FACILITIES. (a) A district may develop  
 10-47 and maintain recreational facilities on a site acquired for the  
 10-48 purpose of developing water, sewer, or drainage facilities.

10-49 (b) A district is not required to prorate the costs of a site  
 10-50 described by Subsection (a) between the primary water, sewer, or  
 10-51 drainage purpose and any secondary recreational facilities purpose  
 10-52 if a licensed professional engineer certifies that the site is  
 10-53 reasonably sized for the intended water, sewer, or drainage  
 10-54 purpose.

10-55 (c) The engineer may consider the following factors in  
 10-56 determining the reasonableness of the size of a water, sewer, or  
 10-57 drainage site:

10-58 (1) the rules, regulations, and design guidelines or  
 10-59 criteria of a municipality, county, or other entity exercising  
 10-60 jurisdiction;

10-61 (2) sound engineering principles;

10-62 (3) the impact on adjoining property;

10-63 (4) the availability of sites that meet the  
 10-64 requirements for the proposed use;

10-65 (5) requirements for sanitary control;

10-66 (6) the need for a buffer zone to mitigate noise or for  
 10-67 aesthetic purposes;

10-68 (7) benefits to storm water quality; and

10-69 (8) anticipated expansions of facilities resulting

11-1 from:  
 11-2 (A) future growth and demand for district  
 11-3 facilities; or  
 11-4 (B) changes in regulatory requirements.

11-5 SECTION 27. Sections 49.4645(a) and (b), Water Code, are  
 11-6 amended to read as follows:

11-7 (a) A district all or part of which is located in Bastrop  
 11-8 County, Bexar County, Waller County, Travis County, Williamson  
 11-9 County, Harris County, Galveston County, Brazoria County,  
 11-10 Montgomery County, or Fort Bend County may issue bonds supported by  
 11-11 ad valorem taxes to pay for the development and maintenance of  
 11-12 recreational facilities only if the bonds are authorized by a  
 11-13 majority vote of the ~~[qualified]~~ voters of the district voting in an  
 11-14 election held for that purpose. The outstanding principal amount  
 11-15 of bonds, notes, and other obligations issued to finance parks and  
 11-16 recreational facilities supported by ad valorem taxes ~~[payable from~~  
 11-17 ~~any source]~~ may not exceed an amount equal to one percent of the  
 11-18 value of the taxable property in the district or, if supported by  
 11-19 contract taxes under Section 49.108, may not exceed an amount equal  
 11-20 to one percent of the sum of the value of the taxable property in the  
 11-21 districts making payments under the contract as shown by the tax  
 11-22 rolls of the central appraisal district at the time of the issuance  
 11-23 of the bonds, notes, and other obligations or an amount greater than  
 11-24 the estimated cost provided in the park plan under Subsection (b),  
 11-25 whichever is smaller. An estimate of the value provided by the  
 11-26 central appraisal district may be used to establish the value of the  
 11-27 taxable property in the district or districts under this section.  
 11-28 The district may not issue bonds supported by ad valorem taxes to  
 11-29 pay for the development and maintenance of:

- 11-30 (1) indoor or outdoor swimming pools; or
- 11-31 (2) golf courses.

11-32 (b) On or before the 10th day before the first day for early  
 11-33 voting by personal appearance at ~~[Not later than the 10th day~~  
 11-34 ~~before]~~ an election ~~[is]~~ held to authorize the issuance of bonds for  
 11-35 the development and maintenance of recreational facilities, the  
 11-36 board shall file in the district office for review by the public a  
 11-37 park plan covering the land, improvements, facilities, and  
 11-38 equipment to be purchased or constructed and their estimated cost,  
 11-39 together with maps, plats, drawings, and data fully showing and  
 11-40 explaining the park plan. The park plan is not part of the  
 11-41 proposition to be voted on, ~~[and the park plan]~~ does not create a  
 11-42 contract with the voters, and may be amended at any time after the  
 11-43 election held to authorize the issuance of bonds for the  
 11-44 development and maintenance of recreational facilities provided  
 11-45 under the plan. The estimated cost stated in the amended park plan  
 11-46 may not exceed the amount of bonds authorized at that election.

11-47 SECTION 28. Section 51.072, Water Code, is amended to read  
 11-48 as follows:

11-49 Sec. 51.072. QUALIFICATIONS FOR DIRECTOR. (a) To be  
 11-50 qualified for election as a director, a person must:

- 11-51 (1) be a resident of the state;
- 11-52 (2) [7] own land subject to taxation in the district or  
 11-53 be a qualified voter in the district; [7] and
- 11-54 (3) be at least 18 years of age.

11-55 (b) Section 49.052 does not apply to a district governed by  
 11-56 this chapter whose principal purpose is providing water for  
 11-57 irrigation.

11-58 SECTION 29. Section 51.335, Water Code, is amended by  
 11-59 amending Subsection (b) and adding Subsection (c) to read as  
 11-60 follows:

11-61 (b) The district shall not usurp functions or duplicate a  
 11-62 service already adequately exercised or rendered by the other  
 11-63 governmental agency except:

- 11-64 (1) under a valid contract with the other governmental  
 11-65 agency; or
- 11-66 (2) as provided by Subsection (c).

11-67 (c) The district may finance, develop, and maintain  
 11-68 recreational facilities under Subchapter N, Chapter 49, even if  
 11-69 similar facilities may be provided by a political subdivision or

12-1 other governmental entity included wholly or partly in the  
 12-2 district.

12-3 SECTION 30. Section 51.523, Water Code, is amended to read  
 12-4 as follows:

12-5 Sec. 51.523. BALLOTS. The ballot for an election under this  
 12-6 subchapter shall be printed to provide for voting for or against  
 12-7 substantially the proposition: "Designation of the area, issuance  
 12-8 of bonds, ~~and~~ levy of a tax to retire the bonds, and levy of a  
 12-9 maintenance tax."

12-10 SECTION 31. Section 51.527, Water Code, is amended by  
 12-11 adding Subsection (c) to read as follows:

12-12 (c) After bonds issued for the defined area or designated  
 12-13 property are fully paid or defeased, the board may declare the  
 12-14 defined area dissolved or may repeal the designation of the  
 12-15 designated property. After that declaration or repeal, the board  
 12-16 shall cease imposing any special taxes authorized under the adopted  
 12-17 tax plan on the property located in the defined area or on the  
 12-18 designated property.

12-19 SECTION 32. Section 53.063(a), Water Code, is amended to  
 12-20 read as follows:

12-21 (a) Except as provided by Subsection (b), to be qualified  
 12-22 for election as a supervisor, a person must be:

12-23 (1) a resident of this state;

12-24 (2) the owner of taxable property in the district or a  
 12-25 qualified voter in the district; and

12-26 (3) at least 18 years of age.

12-27 SECTION 33. Section 54.016(f), Water Code, is amended to  
 12-28 read as follows:

12-29 (f) A city may provide in its written consent for the  
 12-30 inclusion of land in a district that is initially located wholly or  
 12-31 partly outside the corporate limits of the city that a contract  
 12-32 ("allocation agreement") between the district and the city be  
 12-33 entered into prior to the first issue of bonds, notes, warrants, or  
 12-34 other obligations of the district. The allocation agreement shall  
 12-35 contain the following provisions:

12-36 (1) a method by which the district shall continue to  
 12-37 exist following the annexation of all territory within the district  
 12-38 by the city, if the district is initially located outside the  
 12-39 corporate limits of the city;

12-40 (2) an allocation of the taxes or revenues of the  
 12-41 district or the city which will assure that, following the date of  
 12-42 the inclusion of all the district's territory within the corporate  
 12-43 limits of the city, the total annual ad valorem taxes collected by  
 12-44 the city and the district from taxable property within the district  
 12-45 does not exceed an amount greater than the city's ad valorem tax  
 12-46 upon such property;

12-47 (3) an allocation of governmental services to be  
 12-48 provided by the city or the district following the date of the  
 12-49 inclusion of all of the district's territory within the corporate  
 12-50 limits of the city; and

12-51 (4) such other terms and conditions as may be deemed  
 12-52 appropriate by the city.

12-53 SECTION 34. Section 54.236, Water Code, is amended to read  
 12-54 as follows:

12-55 Sec. 54.236. STREET OR SECURITY LIGHTING. (a) Subject to  
 12-56 the provisions of this section, a district may purchase, install,  
 12-57 operate, and maintain street lighting or security lighting within  
 12-58 public utility easements or public rights-of-way or property owned  
 12-59 by ~~within the boundaries of~~ the district.

12-60 (b) A district may not issue bonds supported by ad valorem  
 12-61 taxes to pay for the purchase, installation, and maintenance of  
 12-62 street or security lighting, except as authorized by Section 54.234  
 12-63 or Subchapter N, Chapter 49.

12-64 SECTION 35. Section 54.739, Water Code, is amended to read  
 12-65 as follows:

12-66 Sec. 54.739. SUBSTITUTING LAND OF EQUAL VALUE. After the  
 12-67 district is organized and has obtained voter approval for the  
 12-68 issuance of, or has sold, bonds payable wholly or partly from ad  
 12-69 valorem taxes ~~acquires facilities with which to function for the~~

13-1 ~~purposes for which it was organized, and votes, issues and sells~~  
 13-2 ~~bonds for such purposes],~~ land within the district boundaries  
 13-3 subject to taxation that does not need or utilize the services of  
 13-4 the district may be excluded and other land not within the  
 13-5 boundaries of the district may be included within the boundaries of  
 13-6 the district without impairment of the security for payment of the  
 13-7 bonds or invalidation of any prior bond election, as provided by  
 13-8 this section and Sections 54.740 through 54.747.

13-9 SECTION 36. Section 54.744, Water Code, is amended to read  
 13-10 as follows:

13-11 Sec. 54.744. IMPAIRMENT OF SECURITY. (a) For purposes of  
 13-12 the board's consideration of the applications, the lands proposed  
 13-13 for inclusion shall be deemed to be sufficient to avoid an  
 13-14 impairment of the security for payment of obligations of the  
 13-15 district if:

13-16 (1) according to the most recent tax roll of the  
 13-17 district or the most recently certified estimates of taxable value  
 13-18 from the chief appraiser of the appropriate appraisal district, the  
 13-19 taxable value of such included lands equals or exceeds the taxable  
 13-20 value of the excluded lands; and

13-21 (2) either the estimated costs of providing district  
 13-22 facilities and services to such included lands is equal to or less  
 13-23 than the estimated costs of providing district facilities and  
 13-24 services to the excluded lands or any increased estimated costs of  
 13-25 providing district facilities and services to the included land, as  
 13-26 determined by the district's engineer, can be amortized at  
 13-27 prevailing bond interest rates and maturity schedules and the  
 13-28 prevailing debt service tax rate of the district, as determined by  
 13-29 the district's professional financial advisor, when applied to the  
 13-30 increase in taxable value of the included land over the taxable  
 13-31 value of the excluded land.

13-32 (b) If the district has any[, and (3) the district's]  
 13-33 outstanding bonds or contract obligations [are] payable in whole or  
 13-34 in part by a pledge of net revenues from the ownership or operation  
 13-35 of the district's facilities at the time the board considers an  
 13-36 application, the lands proposed for inclusion shall be deemed to be  
 13-37 sufficient to avoid an impairment of the security for payment of  
 13-38 obligations of the district if[, and] the projected net revenues to  
 13-39 be derived from the lands to be included during the succeeding  
 13-40 12-month period, as determined by the district's engineer, equals  
 13-41 or exceeds the projected net revenues that would otherwise have  
 13-42 been derived from the lands to be excluded during the same period.

13-43 (c) In this section, the taxable value of included land  
 13-44 means the market value of the land if, before or contemporaneously  
 13-45 with the inclusion of the land in the district, the owner of the  
 13-46 land waives the right to special appraisal of the land as to the  
 13-47 district under Section 23.20, Tax Code.

13-48 SECTION 37. Section 49.103(g), Water Code, is repealed.

13-49 SECTION 38. The legislature finds that an agreement entered  
 13-50 into before September 1, 2011, by a municipality and a municipal  
 13-51 utility district is an allocation agreement only if:

13-52 (1) the district is initially located wholly or partly  
 13-53 outside the corporate limits of the municipality;

13-54 (2) the agreement strictly complies with the  
 13-55 requirements of Section 54.016(f), Water Code, as that section  
 13-56 existed immediately before the effective date of this Act; and

13-57 (3) the agreement is specifically designated by the  
 13-58 parties to the agreement as an "allocation agreement" under Section  
 13-59 54.016(f), Water Code.

13-60 SECTION 39. Not later than December 1, 2011, the Texas  
 13-61 Commission on Environmental Quality shall adopt any rules or  
 13-62 amendments to existing rules necessary to implement Section  
 13-63 49.4641, Water Code, as added by this Act.

13-64 SECTION 40. (a) Except as provided by Subsection (b) of  
 13-65 this section, this Act takes effect September 1, 2011.

13-66 (b) Sections 54.739 and 54.744, Water Code, as amended by  
 13-67 this Act, take effect immediately if this Act receives a vote of  
 13-68 two-thirds of all the members elected to each house, as provided by  
 13-69 Section 39, Article III, Texas Constitution; otherwise, those

14-1 sections take effect September 1, 2011.

14-2

\* \* \* \* \*