

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

ARTICLE 1. GENERAL PROVISIONS [FA5(1) [FA19(1)]

SECTION 1. Section 388.005, Health and Safety Code, is amended by adding Subsections (g) and (h) to read as follows:
(g) Except as provided by Subsection (h), 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.
(h) At least once every five years, a political subdivision that is a district as defined by Section 36.001 or 49.001, Water Code, shall for district facilities described by Subsection (g):
(1) evaluate the consumption of electricity;
(2) establish goals to reduce the consumption of electricity;
and
(3) identify and implement cost-effective energy efficiency measures to reduce the consumption of electricity.

SECTION 1. Same as House version.

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

SECTION 2. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(1) in the municipality's extraterritorial jurisdiction; and
(2) contiguous to the corporate or limited purpose boundaries of the municipality, unless the district consents to noncontiguous annexation pursuant to a strategic partnership agreement with the municipality.

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

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

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

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

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

(1) "Project" means a water supply or treatment system, a water distribution system, a sanitary sewage collection or

SENATE VERSION (IE)

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

treatment system, works or improvements necessary for drainage of land, recreational facilities, roads and improvements in aid of roads, or facilities to provide firefighting services.

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

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

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

(1) that any payments due under this section are payable from and are secured by a pledge of a specified part of the revenues

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

of the municipality, including revenues from municipal sales and use taxes [~~municipal water system, sewer system, or drainage system~~];

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

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

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

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

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

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

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

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

(a-1) Subsection (a-2) applies only to a municipality that:

(1) has a population of more than 95,000 and is in a county that has a population of more than 200,000 and borders Lake Palestine;

(2) has a population of more than 30,000 and is in a county that has a population of less than 90,000 and borders Lake

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Ray Hubbard:

(3) has a population of more than 4,500 and that:

(A) borders Lake Lyndon B. Johnson; and

(B) is located in a county that has a population of less than 45,000 and in which at least one state park and one national wildlife refuge are located; or

(4) has a population of less than 3,000 and is located wholly or partly in a county with a population of more than 1.7 million and that is adjacent to a county with a population of more than two million.

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

(1) the area is located within the boundaries of the municipality; and

(2) the municipality provides notice to the commission and the other retail public utility before the municipality begins providing service to the area.

No equivalent provision.

SECTION __. Section 13.254, Water Code, is amended by amending Subsections (a) and (a-2) and adding Subsections (a-5) and (a-6) to read as follows:

(a) The commission at any time after notice and hearing may~~[, on its own motion or on receipt of a petition described by Subsection (a-1);]~~ revoke or amend any certificate of public convenience and necessity with the written consent of the certificate holder or if it finds that:

(1) the certificate holder has never provided, is no longer providing, is incapable of providing, or has failed to provide

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

continuous and adequate service in the area, or part of the area, covered by the certificate;

(2) in an affected county as defined in Section 16.341, the cost of providing service by the certificate holder is so prohibitively expensive as to constitute denial of service, provided that, for commercial developments or for residential developments started after September 1, 1997, in an affected county as defined in Section 16.341, the fact that the cost of obtaining service from the currently certificated retail public utility makes the development economically unfeasible does not render such cost prohibitively expensive in the absence of other relevant factors;

(3) the certificate holder has agreed in writing to allow another retail public utility to provide service within its service area, except for an interim period, without amending its certificate; or

(4) the certificate holder has failed to file a cease and desist action pursuant to Section 13.252 within 180 days of the date that it became aware that another retail public utility was providing service within its service area, unless the certificate holder demonstrates good cause for its failure to file such action within the 180 days.

(a-2) A landowner is not entitled to make the election described in Subsection (a-1) or (a-5) but is entitled to contest under Subsection (a) the involuntary certification of its property in a hearing held by the commission if the landowner's property is located;

(1) within the boundaries of any municipality or the extraterritorial jurisdiction of a municipality with a population of more than 500,000 and the municipality or retail public utility owned by the municipality is the holder of the certificate; or

(2) in a platted subdivision actually receiving water or sewer

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

service.

(a-5) As an alternative to decertification under Subsection (a) and expedited release under Subsection (a-1), the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a certificate of public convenience and necessity and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less than 220,000.

(a-6) The commission shall grant a petition received under Subsection (a-5) not later than the 60th day after the date the landowner files the petition. The commission may not deny a petition received under Subsection (a-5) based on the fact that a certificate holder is a borrower under a federal loan program. The commission may require an award of compensation by the petitioner to a decertified retail public utility that is the subject of a petition filed under Subsection (a-5) as otherwise provided by this section. [FA4]

No equivalent provision.

SECTION __. Subsection (j), Section 13.255, Water Code is amended as follows:

(j) This section shall apply only in a case where:

(1) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a nonprofit water supply or sewer service corporation, a special utility district under Chapter 65, Water Code, or a fresh water supply district under Chapter 53 Water Code; or

(2) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

municipality is a retail public utility, other than a nonprofit water supply or sewer service corporation, and whose service area is located entirely within the boundaries of a municipality with a population of 1.7 million or more according to the most recent federal census; or

(3) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is retail public utility, other than a nonprofit water supply or sewer service corporation, and the service area to be acquired is located entirely within the boundaries of a municipality with a population of more than 30,000 that is in a county that has population of less than 90,000 and borders Lake Ray Hubbard according to the most recent federal census. [FA7]

No equivalent provision.

SECTION __. Section 36.002, Water Code, is amended to read as follows:

Sec. 36.002. OWNERSHIP OF GROUNDWATER. (a) The legislature recognizes that a landowner owns the groundwater below the surface of the landowner's land as real property. Groundwater ownership and rights may be transferred, conveyed, or leased in the same manner and by the same means as any other ownership interest in real property.

(b) The groundwater ownership and rights described by this section:

(1) entitle the landowner, including a landowner's lessees, heirs, or assigns, to drill for and produce the groundwater below the surface of real property, subject to Subsection (d), without causing waste or malicious drainage of other property or negligently causing subsidence, but does not entitle a landowner, including a landowner's lessees, heirs, or assigns, to the right to capture a specific amount of groundwater below

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

the surface of his land; and

(2) do not affect the existence of common law defenses or other defenses to liability under the rule of capture.

(c) Nothing [The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing] in this code shall be construed as granting the authority to deprive [depriving] or divest a landowner, including a landowner's lessees, heirs, or assigns, [divesting the owners or their lessees and assigns] of the groundwater ownership and rights described by this section [or rights, except as those rights may be limited or altered by rules promulgated by a district].

(d) This section does not:

(1) prohibit a district from limiting or prohibiting the drilling of a well by a landowner for failure or inability to comply with minimum well spacing or tract size requirements adopted by the district;

(2) affect the ability of a district to regulate groundwater production as authorized under Section 36.113, 36.116, or 36.122 or otherwise under this chapter or a special law governing a district; or

(3) require that a rule adopted by a district allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner [A rule promulgated by a district may not discriminate between owners of land that is irrigated for production and owners of land or their lessees and assigns whose land that was irrigated for production is enrolled or participating in a federal conservation program].

(e) This section does not affect the ability to regulate groundwater in any manner authorized under:

(1) Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, for the Edwards Aquifer Authority;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(2) Chapter 8801, Special District Local Laws Code, for the Harris-Galveston Coastal Subsidence District; and
(3) Chapter 8834, Special District Local Laws Code, for the Fort Bend Subsidence District. [FA2]

No equivalent provision.

SECTION 7. Section 36.0151, Water Code, is amended by adding Subsections (c) and (d) to read as follows:
(c) The commission may not create a groundwater conservation district, before September 1, 2015, under this section in a county:
(1) in which the annual amount of surface water used is more than 50 times the annual amount of groundwater produced;
(2) that is located in a priority groundwater management area;
and
(3) that has a population greater than 2.3 million.
(d) To the extent of a conflict between this section and Section 35.012, this section prevails. [FA8]

No equivalent provision.

SECTION __. Section 36.101, Water Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:
(a) A district may make and enforce rules, including rules limiting groundwater production based on tract size or the spacing of wells, to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater and to carry out the powers and duties provided by this chapter. In adopting a rule under this chapter, a district [~~During the rulemaking process the board~~] shall:
(1) consider all groundwater uses and needs;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(2) ~~[and shall]~~ develop rules that ~~[which]~~ are fair and impartial;

(3) consider the groundwater ownership and rights described by Section 36.002;

(4) consider the public interest in conservation, preservation, protection, recharging, development and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution;

(5) consider the goals developed as part of the district's comprehensive management plan under Section 36.1071; and

(6) ~~[and that do]~~ not discriminate between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program.

(a-1) Any rule of a district that discriminates between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program is void. [FA2]

No equivalent provision.

SECTION __. Section 36.1071, Water Code, is amended by amending Subsections (c) and (f) and adding Subsection (f-1) to read as follows:

(c) The commission and the Texas Water Development Board shall provide technical assistance to a district in the development of the management plan required under Subsection (a) that ~~[which]~~ may include, if requested by the district, a preliminary review and comment on the plan prior to final approval by the Texas Water Development Board ~~[board]~~. If such review and comment by the commission is

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

requested, the commission shall provide comment not later than 30 days from the date the request is received.

(f) ~~[The district shall adopt rules necessary to implement the management plan.]~~ Prior to the development of the district's first management plan and ~~[its]~~ approval of that plan under Section 36.1072, the district:

~~(1) [may not adopt rules other than rules pertaining to the registration and interim permitting of new and existing wells and rules governing spacing and procedure before the district's board; however, the district may not adopt any rules limiting the production of wells, except rules requiring that groundwater produced from a well be put to a nonwasteful, beneficial use. The district]~~ may accept applications for permits under Section 36.113, provided the district does not act on any such application until the district's management plan is approved as provided in Section 36.1072;

(2) may adopt rules pertaining to the registration, interim permitting, metering, production reporting, spacing, and, where applicable, fee payment for authorized or actual production of water from new and existing wells;

(3) may adopt rules governing procedure before the district's board; and

(4) may not adopt any rules limiting the production of wells, except rules requiring that groundwater produced from a well be put to a nonwasteful, beneficial use.

(f-1) After a management plan is finally approved under Section 36.1072, the district shall adopt or amend rules limiting the production of wells or allocating groundwater as necessary to implement the management plan and achieve the applicable desired future condition. A district may not adopt or amend rules limiting the production of wells or allocating groundwater if the district fails to:

(1) adopt a management plan as required by this section;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(2) submit a management plan to the executive administrator as required by Section 36.1072; and
(3) receive approval of the management plan under Section 36.1072. [FA10]

No equivalent provision.

SECTION __. Section 36.1072, Water Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Once the executive administrator has granted administrative approval to [approved] a management plan:

(1) the executive administrator may not revoke but may require revisions to the approved ~~[groundwater conservation district]~~ management plan as provided by Subsection (g); and
(2) the executive administrator may request additional information from the district if the information is necessary to clarify, modify, or supplement previously submitted material[-; but a request for additional information does not render the management plan unapproved].

(c-1) Not later than the 60th day after the date of the administrative approval of a district's management plan under Subsection (c), the executive administrator shall review the management plan to determine whether the goals of the management plan are consistent with the achievement of the desired future conditions established under Section 36.108(d) that are applicable to all or part of the district, considering any available information regarding groundwater levels, and:

(1) request additional information from the district;
(2) recommend that the district make substantive changes to the management plan; or
(3) approve the management plan. [FA10]

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION __. Section 36.1073, Water Code, is amended to read as follows:

Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN.
Any amendment to a district's ~~the~~ management plan shall be submitted to the executive administrator within 60 days following adoption of the amendment by the district's board. The executive administrator shall review and approve any amendment that ~~which~~ substantially affects the management plan in accordance with the procedures established under Section 36.1072. [FA10]

No equivalent provision.

SECTION __. Subsection (n), Section 36.108, Water Code, is amended to read as follows:

(n) The districts shall prepare ~~a~~ revised conditions ~~plan~~ in accordance with development board recommendations and hold, after notice, at least one public hearing at a central location in the groundwater management area. After consideration of all public and development board comments, the districts shall revise the conditions and submit the conditions to the development board for review. [FA10]

No equivalent provision.

SECTION __. Section 36.118, Water Code, is amended by adding Subsections (e-1) and (e-2) to read as follows:

(e-1) Except as provided by Subsection (e-2), in addition to other remedies provided by law, the district is entitled to recover the district's attorney's fees, court costs, and reasonable expenses incurred in closing or capping the well from the owner of the land on which the well is located.

(e-2) An entity that drills a well to develop subsurface resources not owned by the landowner is liable for expenses incurred in closing or capping the well, unless the landowner

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

assumes responsibility for the well. [FA17]

No equivalent provision.

SECTION __. Section 36.207, Water Code, is amended to read as follows:

Sec. 36.207. USE OF PRODUCTION [PERMIT] FEES AUTHORIZED BY SPECIAL LAW. A district may use funds obtained from production [permit] fees collected pursuant to the special law governing the district for any purpose consistent with the district's approved [certified water] management plan including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies. [FA10]

No equivalent provision.

SECTION __. Section 36.301, Water Code, is amended to read as follows:

Sec. 36.301. VIOLATIONS RELATED TO [FAILURE TO SUBMIT A] MANAGEMENT PLAN. The commission shall take appropriate action under Section 36.303 if:

- (1) a district adopts or amends a rule in violation of Section 36.1071(f-1);
- (2) [~~If~~] a district [~~board~~] fails to submit a management plan or to receive approval [certification] of the [its] management plan under Section 36.1072;
- (3) a district fails to timely readopt the management plan or to submit the readopted management plan to the executive administrator for approval in accordance with Section 36.1072(f);
- (4) the executive administrator determines that a readopted management plan does not meet the requirements for

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

~~approval, and the district has exhausted all appeals; or
(5) a district fails to submit or receive approval [certification]
of an amendment to the management plan under Section
36.1073[~~the commission shall take appropriate action under
Section 36.303~~]. [FA10]~~

No equivalent provision.

SECTION __. (a) Section 36.1071, Water Code, as amended by this Act, applies only to the rulemaking authority of a groundwater conservation district related to a management plan or an amendment to a management plan that is submitted by the district to the executive administrator of the Texas Water Development Board for review and approval on or after the effective date of this Act. A district's rulemaking authority related to a management plan or an amendment to a management plan that is submitted to the executive administrator of the Texas Water Development Board before the effective date of this Act is governed by the law in effect when the management plan or amendment was submitted, and the former law is continued in effect for that purpose.
(b) The change in law made by this Act to Section 36.301, Water Code, applies only to a violation by a groundwater conservation district that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose. [FA10]

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

Sec. 49.059. ~~[DISQUALIFICATION OF]~~ TAX ASSESSOR AND COLLECTOR. (a) The district may employ or contract

SECTION 8. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

with any person to serve as its tax assessor and collector who is:

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

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

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

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

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

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

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

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

(4) is directly or through a corporation developing land in the

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

district or is a director, engineer, or attorney for the district.

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

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

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

SECTION 7. Section 49.063, Water Code, is amended to read as follows:

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

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

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

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

(3) failure of a county clerk to timely or properly post or maintain public access to a notice of the meeting if notice of

SENATE VERSION (IE)

CONFERENCE

SECTION 9. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

~~the meeting is furnished to the county clerk in sufficient time for posting under Section 551.043(a) or 551.045, Government Code [shall affect the validity of any action taken at the meeting].~~

SECTION 8. Sections 49.102(a), (b), (c), and (h), Water Code, are amended to read as follows:

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

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

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

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

SENATE VERSION (IE)

SECTION 10. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

next directors election.

SECTION 9. Sections 49.103(a) and (b), Water Code, are amended to read as follows:

- (a) Except as provided by Section 49.102, the members of the board of a district shall serve staggered ~~[for]~~ four-year terms.
- (b) After confirmation of a district, an ~~[An]~~ election shall be held on the uniform election date, provided by Section 41.001, ~~[established by the]~~ Election Code, in May of each even-numbered year to elect the appropriate number of directors.

SECTION 10. Subchapter D, Chapter 49, Water Code, is amended by adding Section 49.1045 to read as follows:

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

- (1) has 10 or fewer registered voters; and
- (2) holds an election jointly with a county in which the district is wholly or partly located.
- (b) A district may provide for an inquiry into and certification of the voting results of an election under this section if:
 - (1) the election results indicate that the number of votes cast in the election was greater than the number of registered voters in the district;
 - (2) the board determines that the election results are likely to be disputed in court; and
 - (3) the board can determine from the official list of registered voters prepared by the county voter registrar or county elections administrator for the district election which voters were qualified to vote in the district election and can determine from the signature roster from the joint election

SECTION 11. Same as House version.

SECTION 12. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

who voted in the joint election.

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

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

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

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

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

SECTION 11. Sections 49.105(c) and (d), Water Code, are amended to read as follows:

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

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

SECTION 13. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

SECTION 12. Section 49.108, Water Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

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

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

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

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

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

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

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

(A) on an emergency basis; or

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

SECTION 14. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SECTION 13. Subchapter D, Chapter 49, Water Code, is amended by adding Sections 49.109, 49.110, 49.111, 49.112, and 49.113 to read as follows:

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

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

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

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

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

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

SENATE VERSION (IE)

SECTION 15. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

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

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

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

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

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

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

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

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

Sec. 49.112. CANCELLATION OF ELECTION; REMOVAL OF BALLOT MEASURE. Before the first day of early voting by personal appearance, the board by order or resolution may cancel an election called at the discretion of the district or may remove from the ballot a measure included at the discretion of the district. A copy of the order or resolution must be posted during the period for early voting by personal appearance and on election day at each polling place that is used or that would have been used in the election.

Sec. 49.113. NOTICE FOR FILING FOR PLACE ON BALLOT. A notice required by Section 141.040, Election

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Code, must be posted at the district's administrative office in the district or at the public place established by the district under Section 49.063 of this chapter not later than the 30th day before the deadline for a candidate to file an application for a place on the ballot of a district directors' election.

SECTION 14. Section 49.151(c), Water Code, is amended to read as follows:

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

SECTION 15. Sections 49.154(a) and (c), Water Code, are amended to read as follows:

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

(c) Bond anticipation notes may be issued for any purpose for which bonds of the district may be issued [~~have previously been voted~~] or [~~may be issued~~] for the purpose of refunding

SENATE VERSION (IE)

SECTION 16. Same as House version.

SECTION 17. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

previously issued bond anticipation notes. A district may covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of sale of any bonds in the process of issuance for the purpose of refunding the bond anticipation notes, in which case the board will be required to use the proceeds received from sale of the bonds in the process of issuance to pay principal, interest, or redemption price on the bond anticipation notes.

SECTION 16. Section 49.181(a), Water Code, is amended to read as follows:

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

- (1) refunding bonds if the commission issued an order approving the issuance of the bonds or notes that originally financed the project;
- (2) refunding bonds that are issued by a district under an agreement between the district and a municipality allowing the issuance of the district's bonds to refund bonds issued by the municipality to pay the cost of financing facilities;
- (3) bonds issued to and approved by the Farmers Home Administration, the United States Department of Agriculture, the North American Development Bank, or the Texas Water Development Board; or
- (4) refunding bonds issued to refund bonds described by Subdivision (3).

SENATE VERSION (IE)

SECTION 18. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(b) Except as provided by Subsection (h), if ~~[If]~~ the board refuses to approve the annual audit report, the board shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year, accompanied by a statement from the board explaining the reasons for its failure to approve the report.

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

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

SECTION 18. Section 49.212, Water Code, is amended by amending Subsection (d) and adding Subsections (d-1) and (d-2) to read as follows:

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

(1) the charge or fee is imposed by a district for construction, installation, or inspection of a tap or connection to district

SENATE VERSION (IE)

SECTION 19. Same as House version.

SECTION 20. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

water, sanitary sewer, or drainage facilities, including all necessary service lines and meters, for capacity in storm water detention or retention facilities and related storm water conveyances, or for wholesale facilities that serve such water, sanitary sewer, ~~or~~ drainage, or storm water detention or retention facilities; and

(2) the charge or fee:

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

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

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

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

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

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

the district's utility system for purposes of the district's bond covenants.

SECTION 19. Section 49.2121(b), Water Code, is amended to read as follows:

(b) A district may:

- (1) accept a credit card for the payment of any fees and charges imposed by the district;
- (2) collect a fee~~[, not to exceed five percent of the amount of the fee or charge being paid,]~~ that is reasonably related to the expense incurred by the district in processing the payment by credit card; and
- (3) collect a service charge for the expense incurred by the district in collecting the original fee or charge if the payment by credit card is not honored by the credit card company on which the funds are drawn.

No equivalent provision.

SENATE VERSION (IE)

SECTION 21. Same as House version.

CONFERENCE

SECTION __. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2127 to read as follows:

Sec. 49.2127. WATER MANAGEMENT PLANS FOR CERTAIN SPECIAL WATER AUTHORITIES. (a) In this section:

(1) "Authority" means a special water authority to which this section applies under Subsection (b).

(2) "Firm water" means a supply of stored water that could be supplied without shortage during each year of a simulated repeat of the drought of record, while honoring all senior water rights. During a drought of record, the supply of water for firm water customers has a higher priority than that of interruptible water customers.

(3) "Interruptible water" means a stored supply of water for

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

customers of an authority that must be curtailed before the authority curtails firm water supplies.

(b) This section applies only to a special water authority whose water management plan consists of a reservoir operation plan for the operation of two water supply reservoirs and was:

(1) developed by an applicant for a permit under Chapter 11; and

(2) originally required by a court order adjudicating the water rights for those reservoirs.

(c) An authority's water management plan must:

(1) ensure that adequate firm water supplies are available to meet the existing and projected demands of firm water customers to the extent:

(A) provided by previously adjudicated water rights; and

(B) other supplies are not available to the authority to meet those firm water customer demands; and

(2) provide for curtailing water supplies under interruptible commitments before requesting that firm water customers institute voluntary drought contingency measures. [FA6]

No equivalent provision.

SECTION __. A special water authority to which Section 49.2127, Water Code, as added by this Act, applies shall adopt or amend its rules and its water management plan as required to implement Section 49.2127, Water Code, as added by this Act. [FA6]

SECTION 20. Section 49.216, Water Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) Any peace officer who is directly employed by a district,

SECTION 22. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

before beginning to perform any duties and at the time of appointment, must take an oath and execute a bond conditioned on faithful performance of such officer's duties in the amount of \$1,000 payable to the district. The oath and the bond shall be filed in the district office.

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

No equivalent provision.

SENATE VERSION (IE)

SECTION __. Subchapter H, Chapter 49, Water Code, is amended to add Section 49.239 to read as follows:

Sec. 49.239. WATER RATES. (a) In this section "utility" means any person or entity or any combination of persons or entities, other than a district, a water supply corporation that has adopted and is operating in accordance with by-laws or articles of incorporation which ensure that it is member-owned and member-controlled, or a political subdivision of the state, or their lessees, trustees, and receivers, providing potable water service to a district or to the residents of such district.

(b) Notwithstanding the provisions of any agreement, a district may appeal the rate it is charged by a utility for potable water service by filing a petition with the commission. The commission shall hear the appeal de novo and the utility shall have the burden of proof to establish that the rate is just and reasonable and does not adversely affect the public interest. The commission shall presume that the rate adversely affects the public interest if the rate that utility charges at the time of the petition is filed is at least 200 percent higher than the rate charged at any time during the 36-

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

month period before the date of the petition. The commission shall fix the rates to be charged by the utility and the utility may not increase such rates with the approval of the commission. [FA9]

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

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

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

SECTION 23. Same as House version.

No equivalent provision.

SECTION __. Chapter 49, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. DISSOLUTION OF CERTAIN DISTRICTS

Sec. 49.335. DEFINITIONS. In this subchapter:

(1) "City" means a municipality described by Section 49.336.

(2) "City council" means the governing body of a city.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(3) "District" means a district named in an ordinance adopted under Section 49.339.

(4) "District board" means the district's board of directors. Sec. 49.336. APPLICABILITY. This subchapter applies only to:

(1) the district; and

(2) a municipality:

(A) with a population greater than 100,000;

(B) located in a county that is within 25,000 feet of the Rio Grande;

(C) that is not a county seat; and

(D) that contains within its corporate boundaries or extraterritorial jurisdiction more than half of the district's territory.

Sec. 49.337. DISSOLUTION OF DISTRICT; FINDINGS PREREQUISITE TO MOTION TO TRANSFER. (a) The district is dissolved on the later of:

(1) September 1, 2011; or

(2) the date a transfer ordinance adopted under Section 49.339 takes effect under Section 49.342.

(b) At a regularly scheduled meeting of the city council, a city may propose an ordinance to allow the city to accept a transfer of the obligations, liabilities, and assets of the district if the city council finds that as of the date of the meeting:

(1) at least 80 percent of the raw water diverted by the district in the preceding 12 months was diverted for use by the city;

(2) the city is capable of assuming all rights and obligations of the district;

(3) the city is capable of assuming responsibility for operating the district's facilities to benefit the district's existing customers and performing the services and functions performed by the district;

(4) dissolution of the district will result in an overall cost

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

savings to city residents; and
(5) dissolution of the district will result in a more stable water supply for residents of the city and surrounding communities.
Sec. 49.338. HEARING REQUIRED. (a) Before a city may propose an ordinance described by Section 49.339, the city must conduct a public hearing on the issue.
(b) Notice of the public hearing must be:
(1) posted in accordance with the laws that apply to regular meetings of the city council; and
(2) mailed to each district board member.
Sec. 49.339. TRANSFER ORDINANCE. (a) After a city council has made the findings required by Section 49.337(b) and has conducted a public hearing as required by Section 49.338, the city council may adopt an ordinance allowing the city to accept a transfer of the district's obligations, liabilities, and assets.
(b) The ordinance must contain provisions that:
(1) eliminate the required payment of any flat tax or assessments paid to the district by landowners in the district;
(2) ensure that all water rights are held in trust by the city for the uses previously adjudicated;
(3) ensure that all individual water users are entitled to continue to use or have access to the same amount of water they were entitled to before the dissolution of the district;
(4) require the city to perform all the functions of the district, including the provision of services; and
(5) ensure delivery of water to landowners at or below the lowest comparable delivery charge imposed by any other irrigation district wholly located in the county in which the city is located.
(c) The ordinance takes effect only if two-thirds of the city council votes in favor of the ordinance.
Sec. 49.340. CITY CONSENT; DISTRICT DUTIES. (a) On

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

or before the effective date of the ordinance described by Section 49.339, the district board shall provide the district's management and operational records to the city that passed the ordinance to ensure the orderly transfer of management and operational responsibility to the city.

(b) Without the consent of a majority of the members of a city council that publishes notice under Section 49.338(b), the district may not:

(1) sell, transfer, or encumber any district asset;

(2) issue debt or acquire additional obligations; or

(3) default on or fail to honor financial, legal, or other obligations of the district.

(c) Unless a majority of the members of a city council that publishes notice under Section 49.338(b) agree otherwise, the district shall:

(1) maintain assets of the district in an appropriate condition reflective of good stewardship and proper repair; and

(2) preserve district records, including information maintained by the district in electronic format.

(d) Any action undertaken by the district that does not comply with Subsection (b) is void.

(e) This section expires on the date a city that has published notice under Section 49.338(b) repeals the city's ordinance described by Section 49.339.

Sec. 49.341. PETITION BY VOTERS; SUSPENSION OR REPEAL OF ORDINANCE; ELECTION. (a) The voters of the district and of a city that enacts a transfer ordinance under this subchapter may object to the ordinance by filing a petition with the secretary of the city.

(b) The petition must be signed by at least five percent of the combined total of registered voters who reside in the city or any part of the district outside the city.

(c) The petition must be filed not later than the 30th day after

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

the date the city council votes in favor of the transfer ordinance under Section 49.339(c).

(d) The city secretary shall verify the signatures on the petition and shall present the verified petition to the city council at the council's next scheduled meeting.

(e) On receipt of the petition, the city council shall suspend the effectiveness of the ordinance, and the city may not take action under the ordinance unless the ordinance is approved by the voters under Subsection (f).

(f) The city council shall reconsider the suspended ordinance at the next scheduled meeting of the council. If the city council does not repeal the transfer ordinance, the city council shall submit a proposition for or against enactment of the ordinance to the voters of the city and the district at an election held jointly by the city and the district on the next uniform election date. The transfer ordinance takes effect if a majority of the voters voting in that election vote in favor of the transfer.

Sec. 49.342. EFFECTIVE DATE OF TRANSFER. A transfer ordinance under this subchapter takes effect on the date:

(1) the period for filing a voter petition expires under Section 49.341(c), if a voter petition is not filed under that section; or

(2) the voters approve the transfer ordinance under Section 49.341(f).

Sec. 49.343. TRANSFER OF ASSETS. (a) On or before the effective date of a transfer ordinance under Section 49.342, the district shall:

(1) transfer to the city the ownership of any water rights and certificates of adjudication;

(2) transfer the assets, debts, and contractual rights and obligations of the district to the city; and

(3) provide notice and make recordings of the transfers under

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

this section as required by the Water Code and other law.
(b) On receipt of notice of the transfer of a district certificate of adjudication, the Texas Commission on Environmental Quality shall note in its records that the certificate of adjudication is owned and held by the city. The Texas Commission on Environmental Quality shall transfer the district's certificate to the city as a ministerial act without further application, notice, or hearing. A person or other legal entity does not have a right to object to or to request an administrative review of a transfer made in accordance with this subchapter.
(c) The transfer of the district's water rights and any certificate of adjudication to the city does not affect or impair the priority, extent, validity, or purpose of the water rights or certificate.
Sec. 49.344. EXPIRATION. This subchapter expires January 1, 2016. [FA15]

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

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

SECTION 24. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

provision of an adequate water supply.

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

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

(f) Before a district imposes an ad valorem tax or issues bonds payable wholly or partly from ad valorem taxes to finance the establishment of [establishes] a fire department, contracts to operate a joint fire department, or contracts with another person to perform fire-fighting services within the district, the district must comply with [the provisions of] Subsections (g), (h), and (i). A district that funds fire-fighting services with revenue, including mandatory fees or voluntary contributions, is not required to comply with Subsections (g), (h), and (i).

(i) After approval of a plan by the commission, the district shall hold an [submit to the electors of the district at the] election to approve the plan, approve bonds payable wholly or partly from ad valorem taxes, and [or to] impose ad valorem taxes [a mandatory fee] for financing the plan. The election [;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

~~or if no bonds or fees are to be approved, at an election called for approval of the plan, which] may be held in conjunction with an election required by Section 49.102[~~, the proposition of whether or not the plan should be implemented or entered into by the district]. [The ballots at the election shall be printed, as applicable, to provide for voting for or against the proposition: "The implementation of the plan for (operation/joint operation) of a fire department"; or "The plan and contract to provide fire fighting services for the district."~~~~

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

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

SECTION 23. Section 49.462(1), Water Code, is amended to read as follows:

(1) "Recreational facilities" means parks, landscaping, parkways, greenbelts, sidewalks, trails, public right-of-way beautification projects, and recreational equipment and

SENATE VERSION (IE)

SECTION 25. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

facilities. The term includes associated street and security lighting. The term does not include a minor improvement or beautification project to land acquired or to be acquired as part of a district's water, sewer, or drainage facilities.

SECTION 24. Subchapter N, Chapter 49, Water Code, is amended by adding Section 49.4641 to read as follows:

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

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

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

- (1) the rules, regulations, and design guidelines or criteria of a municipality, county, or other entity exercising jurisdiction;
- (2) sound engineering principles;
- (3) the impact on adjoining property;
- (4) the availability of sites that meet the requirements for the proposed use;
- (5) requirements for sanitary control;
- (6) the need for a buffer zone to mitigate noise or for aesthetic purposes;
- (7) benefits to storm water quality; and
- (8) anticipated expansions of facilities resulting from:

SECTION 26. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (A) future growth and demand for district facilities; or
- (B) changes in regulatory requirements.

SECTION 25. Sections 49.4645(a) and (b), Water Code, are amended to read as follows:

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

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

SECTION 27. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SECTION 26. Section 51.072, Water Code, is amended to read as follows:

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

(1) be a resident of the state;

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

(3) be at least 18 years of age.

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

SECTION 27. Section 51.335, Water Code, is amended by amending Subsection (b) and adding Subsection (c) to read as

SENATE VERSION (IE)

SECTION 28. Same as House version.

SECTION 29. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

follows:

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

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

(2) as provided by Subsection (c).

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

SECTION 28. Section 51.523, Water Code, is amended to read as follows:

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

SECTION 29. Section 51.527, Water Code, is amended by adding Subsection (c) to read as follows:

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

SECTION 30. Same as House version.

SECTION 31. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 30. Section 53.063(a), Water Code, is amended to read as follows:

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

- (1) a resident of this state;
- (2) the owner of taxable property in the district or a qualified voter in the district; and
- (3) at least 18 years of age.

SECTION 31. Section 54.016(f), Water Code, is amended to read as follows:

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

- (1) a method by which the district shall continue to exist following the annexation of all territory within the district by the city, if the district is initially located outside the corporate limits of the city;
- (2) an allocation of the taxes or revenues of the district or the city which will assure that, following the date of the inclusion of all the district's territory within the corporate limits of the city, the total annual ad valorem taxes collected by the city and the district from taxable property within the district does not exceed an amount greater than the city's ad valorem tax upon such property;
- (3) an allocation of governmental services to be provided by the city or the district following the date of the inclusion of all of the district's territory within the corporate limits of the city;

SENATE VERSION (IE)

SECTION 32. Same as House version.

SECTION 33. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

and

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

No equivalent provision.

SECTION __. Subchapter D, Chapter 54, Water Code, is amended by adding Section 54.204 to read as follows:

Sec. 54.204. PUBLIC MEETINGS BEFORE CERTAIN WATER RATE INCREASES. (a) A wholesale supplier of water to a district that proposes to increase the rate the district pays for water must conduct at least two public meetings on the proposed rate increase in the district.

(b) The district may pass the increase along to the district's customers only after the public meetings have been held under Subsection (a).

(c) This section applies only to a proposed rate that is at least 200 percent higher than the rate the wholesale supplier charged the district at any time in the preceding 36-month period. [FA16]

SECTION 32. Section 54.236, Water Code, is amended to read as follows:

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

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

SECTION 34. Same as House version.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

SECTION 33. Section 54.739, Water Code, is amended to read as follows:

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

SECTION 34. Section 54.744, Water Code, is amended to read as follows:

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

- (1) according to the most recent tax roll of the district or the most recently certified estimates of taxable value from the chief appraiser of the appropriate appraisal district, the taxable value of such included lands equals or exceeds the taxable value of the excluded lands; and
- (2) either the estimated costs of providing district facilities and services to such included lands is equal to or less than the

SECTION 35. Same as House version.

SECTION 36. Section 54.744, Water Code, is amended to read as follows:

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

- (1) according to the most recent tax roll of the district or the most recently certified estimates of taxable value from the chief appraiser of the appropriate appraisal district, the taxable value of such included lands equals or exceeds the taxable value of the excluded lands; and
- (2) either the estimated costs of providing district facilities and services to such included lands is equal to or less than the

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

estimated costs of providing district facilities and services to the excluded lands or any increased estimated costs of providing district facilities and services to the included land, as determined by the district's engineer, can be amortized at prevailing bond interest rates and maturity schedules and the prevailing debt service tax rate of the district, as determined by the district's professional financial advisor, when applied to the increase in taxable value of the included land over the taxable value of the excluded land. ~~[- and]~~

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

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

SECTION 35. Section 49.103(g), Water Code, is repealed.

SECTION 36. The legislature finds that an agreement entered into before September 1, 2011, by a municipality and a

SENATE VERSION (IE)

estimated costs of providing district facilities and services to the excluded lands or any increased estimated costs of providing district facilities and services to the included land, as determined by the district's engineer, can be amortized at prevailing bond interest rates and maturity schedules and the prevailing debt service tax rate of the district, as determined by the district's professional financial advisor, when applied to the increase in taxable value of the included land over the taxable value of the excluded land.

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

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

SECTION 37. Same as House version.

SECTION 38. Same as House version.

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

municipal utility district is an allocation agreement only if:

- (1) the district is initially located wholly or partly outside the corporate limits of the municipality;
- (2) the agreement strictly complies with the requirements of Section 54.016(f), Water Code, as that section existed immediately before the effective date of this Act; and
- (3) the agreement is specifically designated by the parties to the agreement as an "allocation agreement" under Section 54.016(f), Water Code.

SECTION 37. Not later than December 1, 2011, the Texas Commission on Environmental Quality shall adopt any rules or amendments to existing rules necessary to implement Section 49.4641, Water Code, as added by this **Act**.

No equivalent provision.

SECTION 38. (a) Except as provided by Subsection (b) of this section, this **Act** takes effect September 1, 2011.

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

No equivalent provision.

SENATE VERSION (IE)

SECTION 39. Not later than December 1, 2011, the Texas Commission on Environmental Quality shall adopt any rules or amendments to existing rules necessary to implement Section 49.4641, Water Code, as added by this **article**.
[FA5(3) [FA19(3)]]

SECTION __. This Act takes effect September 1, 2011.
[FA17]

SECTION 40. (a) Except as provided by Subsection (b) of this section, this **article** takes effect September 1, 2011.

(b) Sections 54.739 and 54.744, Water Code, as amended by this **article**, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution; otherwise, those sections take effect September 1, 2011.
[FA5(4),(5);FA19(4),(5)]

SECTION __. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8372 to read as follows:

CONFERENCE

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

CHAPTER 8372. BELL COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8372.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Bell County Municipal Utility District No. 1.

Sec. 8372.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8372.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8372.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8372.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8372.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

Sec. 8372.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8372.007-8372.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8372.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8372.052, directors serve staggered four-year terms.

Sec. 8372.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Roger Hunter;

(2) Randy Reding;

(3) David Barr;

(4) Karen Walinder; and

(5) David Lazar.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8372.003; or

(2) September 1, 2015.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(c) If permanent directors have not been elected under Section 8372.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8372.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8372.053-8372.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8372.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8372.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8372.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the commission as required by Section 54.234, Water Code.

Sec. 8372.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8372.103 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8372.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8372.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 8372.103; or

(2) a recreational facility as defined by Section 49.462, Water Code.

[Sections 8372.107-8372.150 reserved for expansion]

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8372.151. ELECTIONS REGARDING TAXES OR

BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8372.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8372.152. OPERATION AND MAINTENANCE TAX.

(a) If authorized at an election held under Section 8372.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8372.153. CONTRACT TAXES. (a) In accordance

with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8372.154-8372.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Sec. 8372.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8372.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8372.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district. [FA1]

No equivalent provision.

SECTION __. The Bell County Municipal Utility District No. 1 initially includes all the territory contained in the following area:

Being all that certain tract or parcel of land situated in the C. H. Fitch Survey, A-316, the John Lewis Survey, A-512, the S.C. Fitch Survey, A-371, and the Young Williams Survey, A-861, Bell County, Texas, being all of Tract One (called 442.51 acres), Tract Two (called 23.923 acres), and Tract 4 (called 8.440 acres) described in deed to Weldon Whitis and Bruce Whitis in Volume 4441, Page 575, Official Records, Bell County, Texas, and all of that certain called 64.7 acre tract described in deed to Whitis Land Investments, Ltd., in Volume 6622, Page 114, Official Records, Bell County,

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at an iron rod at the southeast corner of said Tract 4 (called 8.440 acres), same being in the north line of said Tract One (called 442.51 acres), also being the southwest corner of Tract Three (called 6.747 acres) also described in deed to Weldon Whitis and Bruce Whitis in Volume 4441, Page 575, Official Records, Bell County, Texas, for corner of the herein described tract,

THENCE N 17°42'07" E, 444.85 along the west line of said Tract Three and east line of said Tract Two to an iron pipe for corner of the herein described tract;

THENCE in a westerly direction along the north line of said Tract Three with the following courses:

1. N 88°11'16" W, 310.38 feet to an iron pipe;
2. S 83°11'40" W, 317.12 feet, to an iron pipe;
3. S 82°58'31" W, 246.70, feet to an iron pipe, for the northwest corner of said Tract Three;

THENCE in a southerly direction along the west line of said Tract Three with the following courses:

1. S 10°13'31" W, 26.66 feet;
2. S 29°13'59" E, 10.60 feet;
3. S 01°30'59" E 14.54 feet;
4. S 43°00'42" W, 24.35 feet;
5. S 61°37'21" W, 12.89 feet;
6. S 14°33'54" W, 88.90 feet, to an iron pipe in a fence corner, for an ell corner;

THENCE N 71°44'38" W, 190.17 feet, westerly, along a north line of said Tract Three to an iron rod in the north line of said Tract One;

THENCE in a westerly direction along the north line of said Tract One with the following courses:

1. N 70°34'14" W, 44.59 feet, an iron rod for corner;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

2. N 72°25'22" W, 616.92 feet, an iron rod for corner;
3. N 74°43'06" W, 507.39 feet, an iron rod in the east line of said 64.7 acre tract, for corner;
THENCE N 15°55'53" E, 851.78 feet, westerly, along an east line of said 64.7 acre tract to a cedar, for the northeast corner of said 64.7 acre tract;
THENCE in a westerly direction a the north line of said 64.7 acre tract with the following courses:
 1. N 48°17'37" W, 82.11 feet, a post for corner;
 2. N 28°55'27" W, 225.01 feet, a post for corner;
 3. N 58°18'37" W, 18.24 feet, an elm for corner;
 4. N 75°42'40" W, 266.08 feet, an iron rod for corner;
 5. N 75°23'12" W, 237.82 feet, an iron rod for corner;
 6. N 73°19'20" W, 164.19 feet, an iron rod for the northeast corner of Lot 5, Block 6, Stoneoak Subdivision, Phase 2, recorded in Cabinet B, Slide 334-B, Plat Records, Bell County, Texas, for corner of the herein described tract;
THENCE along the easterly and southerly boundaries of Block 6, Stoneoak Subdivision, Phase 2 with the following courses:
 1. S 14°37'25" W, 427.85 feet, an iron rod for corner;
 2. S 39°36'49" W, 477.27 feet, an iron rod for corner;
 3. N 50°23'11" W, 139.40 feet, an iron rod in the north margin of Stoneoak Dr., for corner;
THENCE S 39°36'49" W, 60.00 feet, to an iron rod in the south margin of Stoneoak Dr, for corner;
THENCE N 50°23'59" W, 99.90 feet, along the south margin of Stoneoak Dr., to an iron rod for the northeast corner of Block 3, Stoneoak Subdivision, Phase 2, for corner;
THENCE along the easterly and southerly boundaries of Block 3, Stoneoak Subdivision, Phase 2 with the following courses:
 1. S 39°39'11" W, 139.38 feet, an iron rod for the northeast

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

corner of Lot 5, Block 3, Stoneoak Subdivision, Phase 2, for corner;

2. N 50°23'11" W, 311.48 feet, an iron rod, for corner;

3. N 53°09'02" W, 458.34 feet, an iron rod for the southwest corner of Lot 1, Block 3, Stoneoak Subdivision, Phase 2, same being the southeast corner of Lot 1, Block 1, Stoneoak Subdivision, Phase 1, recorded in Cabinet B, Slide 236-B, Plat Records, Bell County, Texas, for corner;

THENCE N 53°50'25" W, 155.91 feet, along the south line of said Lot 1, Block 1, to an iron rod in the east margin of FM 1670, for corner;

THENCE S 27°04'56" W, 566.14 feet, along the east margin of FM 1670 for an iron rod in the north line of Lot 6, Block 1, Stoneoak Subdivision, Phase 1, for corner;

THENCE along the easterly and southerly boundaries of Lot Lot 6, Block 1, Stoneoak Subdivision, Phase 1, with the following courses:

1. S 53°56'27" E, 155.87 feet, an iron rod for corner;

2. S 27°04'53" W, 145.23 feet, an iron rod for the southeast corner of said Lot 6, Block 1, Stoneoak Subdivision, Phase 1, and corner of the herein described tract;

THENCE along the southeasterly along the southerly boundary of said 64.7 acre tract with the following courses:

1. S 56°19'35" E, 696.11 feet, an iron rod, for corner;

2. N 23°01'40" E, 18.36 feet, an iron rod, for corner;

3. S 47°22'19" E, 1346.71 feet, an iron rod, in the west line of said Tract One and an ell corner of the herein described tract;

THENCE in a southerly direction along the fenced west line of said Tract One with the following courses:

1. S 45°43'29" W, 521.79 feet, an iron rod, for corner;

2. S 28°59'19" W, 430.76 feet, an iron rod, for corner;

3. S 15°02'24" W, 590.71 feet, a 12" cedar, for corner;

4. S 31°13'21" W, 11.21 feet, a 12" cedar, for corner;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

5. S 28°24'41" W, 2.53 feet, an iron rod for the north corner of the called 8.12 acre tract described in deed to the United States of America in Volume 874, Page 283, Deed Records of Bell County, Texas;
THENCE S 19°42'32" E, 1187.26 feet, along a east line of said 8.12 acre tract and west line of said Tract One to an iron pipe for the south corner of said 8.12 acre tract, for corner;
THENCE S 15°55'45" W, 377.40 feet, along a north west line of said Tract One to an iron pipe for the westerly southwest corner of the herein described tract;
THENCE S 78°41'13" E, 2847.43 feet, along a south line of said Tract One and existing fence to an iron pipe in a fence corner, same being an ell corner of the herein described tract;
THENCE S 12°34'41" W, 95.71 feet, to a point, for corner;
THENCE in a easterly direction 100' north of an parallel to the south line of said Tract One, south line of said Tract Two, and left bank of the Lampasas River with the following courses:
1. N 59°59'13" E, 125.67 feet, a point, for corner;
2. N 78°13'20" E, 288.55 feet, a point, for corner;
3. S 69°41'17" E, 72.82 feet, a point, for corner;
4. S 67°06'56" E, 275.14 feet, a point, for corner;
5. S 58°22'11" E, 271.35 feet, a point, for corner
6. S 46°50'39" E, 512.57 feet, a point, for corner;
7. S 26°54'16" E, 299.38 feet, a point, for corner;
8. S 43°48'14" E, 309.26 feet, a point, for the southeast corner of the herein described tract;
THENCE in a northerly direction along the fenced east line of said Tract Two, and east line of the herein described tract, with the following courses:
1. N 14°02'58" E, 481.07 feet, a post, for corner;
2. N 02°07'12" W, 180.92 feet, a post, for corner;
3. N 10°32'57" E, 614.21 feet, a post, for corner;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

4. N 49°54'32" E, 229.03 feet, a fence corner post for the northeast corner of said Tract Two;
THENCE in a westerly direction along a fenced north line of said Tract Two, and east line of the herein described tract, with the following courses:
1. N 72°21'30" W, 39.54 feet, an iron rod, for corner;
 2. N 64°20'47" W, 70.85 feet, an iron rod in a fence corner in the east line of said Tract One, for corner of the herein described tract;
- THENCE in a northerly direction along the fenced east line of said Tract One, and east line of the herein described tract, with the following courses:
1. N 53°59'40" E, 167.20 feet, an iron rod, for corner;
 2. N 59°20'36" E, 58.19 feet, an iron rod, for corner;
 3. N 62°55'16" E, 71.72 feet, an iron rod, for corner;
 4. N 69°11'44" E, 68.89 feet, a an iron rod, for corner;
 5. N 62°45'31" E, 112.05 feet, an iron rod, for corner;
 6. N 73°56'23" E, 35.96 feet, an iron rod, for corner;
 7. N 61°52'10" E, 86.51 feet, an iron rod, for corner;
 8. N 51°31'36" E, 274.08 feet, an iron rod, for corner;
 9. N 45°30'37" E, 58.94 feet, an iron rod, for corner;
 10. N 35°22'34" E, 111.93 feet, an iron rod, for corner;
 11. N 24°37'26" E, 55.46 feet, an iron rod, for corner;
 12. N 02°52'20" E, 61.55 feet, an iron rod, for corner;
 13. N 05°33'08" W, 125.86 feet, an iron rod, for corner;
 14. N 42°54'00" W, 25.42 feet, an iron rod, for corner;
 15. N 83°42'20" W, 111.89 feet, a post, for corner;
 16. N 79°38'56" W, 59.70 feet, an iron rod, for corner;
 17. N 12°35'12" E, 319.71 feet, a 14" cedar, for corner;
 18. N 03°59'50" E, 60.17 feet, an iron rod, for corner;
 19. N 00°04'49" E, 10.78 feet, an iron rod, for corner;
 20. N 24°58'14" E, 56.12 feet, an iron rod, for corner;
 21. N 12°05'54" E, 554.94 feet, an iron rod, for corner;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

22. N 14°09'42" W, 13.29 feet, an iron rod, for corner;
23. N 54°33'04" W, 43.94 feet, an iron rod, for corner;
24. N 67°13'03" W, 67.22 feet, an iron rod, for corner;
25. N 15°57'36" E, 766.87 feet, an iron rod in a fence corner, same being the most easterly northeast corner of said Tract One, for corner of the herein described tract;
THENCE N 76°03'02" W, 608.28 feet, along the fenced north line of said Tract One to an iron rod in a fence corner for an ell corner of the herein described tract;
THENCE N 16°06'35" E, 385.98 feet, along a fenced east line of said Tract One to an iron pipe in a fence corner for corner;
THENCE N 74°31'12" W, 801.90 feet, along a fenced north line of said Tract One to an iron pipe in a fence corner for corner;
THENCE S 16°27'16" W, 399.55 feet, along a fenced line of said Tract One to an iron pipe in a fence corner for corner;
THENCE N 71°41'44" W, 1155.49 feet, along a fenced north line of said Tract One to an iron rod for the southeast corner of said Tract Three (called 6.747 acres), for corner;
THENCE N 71°42'51" W, 62.25 feet along the south line of said Tract Three and north line of said Tract One to the PLACE OF BEGINNING and containing a called mathematical total of 534.66 acres of land, more or less.
[FA1]

No equivalent provision.

SECTION __. (a) Section 8372.106, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.
(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8372, Special District Local Laws Code, as added by Section 1 of

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

this Act, is amended by adding Section 8372.106 to read as follows:

Sec. 8372.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution. [FA1]

No equivalent provision.

SECTION __. Except as provided by Section __ (preceding) of this Act, this Act takes effect September 1, 2011. [FA1]

No equivalent provision.

ARTICLE __. IMPERIAL REDEVELOPMENT DISTRICT
FA5(6)

No equivalent provision.

SECTION __.01. Section 8150.001, Special District Local Laws Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "County" means Fort Bend County, Texas. [FA5(6)]

No equivalent provision.

SECTION __.02. Section 8150.002, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.002. NATURE OF DISTRICT. The district is a municipal utility district in Fort Bend County created under Section 59, Article XVI, Texas Constitution, and is essential to accomplish the purposes of Sections [Section] 52 and 52-a, Article III, Section 1-g, Article VIII, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. [FA5(6)]

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION __.03. Subchapter A, Chapter 8150, Special District Local Laws Code, is amended by adding Section 8150.0025 to read as follows:

Sec. 8150.0025. DECLARATION OF INTENT. (a) By creating the district and in authorizing the city, the county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city or the county from providing services to the area in the district. The district is created to supplement and not to supplant city and county services provided in the district. [FA5(6)]

No equivalent provision.

SECTION __.04. Section 8150.003, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections [Section] 52 and 52-a, Article III, Section 1-g, Article VIII, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(b) The district is created for the ~~[same]~~ purposes ~~of [as]~~:

(1) a municipal utility district as provided by Section 54.012, Water Code;

(2) ~~[a road utility district created under]~~ Section 52, Article

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

~~III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements in aid of those roads, including drainage improvements [and operating under Chapter 441, Transportation Code, including the purpose of constructing, acquiring, improving, maintaining, and operating roads and road facilities]; and~~
~~(3) the purchase, construction, acquisition, ownership, improvement, maintenance, and operation of the public works and public improvements authorized for a tax increment reinvestment zone operating under Chapter 311, Tax Code, and a municipal management district operating under Chapter 375, Local Government Code.~~
~~(c) The district is created to serve a public use and benefit.~~
~~(d) The creation of the district is in the public interest and is essential to further the public purposes of:~~
~~(1) developing and diversifying the economy of the state;~~
~~(2) eliminating unemployment and underemployment; and~~
~~(3) developing or expanding transportation and commerce.~~
~~(e) The district will:~~
~~(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;~~
~~(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and~~
~~(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.~~
~~(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street~~

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

landscaping, vehicle parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public. [FA5(6)]

No equivalent provision.

SECTION __.05. Subchapter A, Chapter 8150, Special District Local Laws Code, is amended by adding Section 8150.0035 to read as follows:

Sec. 8150.0035. FINDING ON SPORTS AND COMMUNITY VENUES. A sports and community venue facility is considered to be a park and recreational facility. [FA5(6)]

No equivalent provision.

SECTION __.06. Subchapter C, Chapter 8150, Special District Local Laws Code, is amended by adding Sections 8150.1025, 8150.105, 8150.106, 8150.107, 8150.108, 8150.109, and 8150.110 to read as follows:

Sec. 8150.1025. MUNICIPAL MANAGEMENT DISTRICT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement, improvement project, or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement, improvement project, or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 8150.105. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 8150.106. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 8150.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 8150.108. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(c) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality; and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 8150.109. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 8150.110. SPORTS AND COMMUNITY VENUE FACILITIES. (a) The district may acquire, sell, lease as lessor or lessee, convey, construct, finance, develop, own, operate, maintain, acquire real property interests for, demolish, or reconstruct a sports and community venue facility.

(b) A sports and community venue facility authorized under this section includes:

(1) an arena, coliseum, stadium, or other type of area or facility that is used or is planned for use for one or more professional or amateur sports events, community events,

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

other sports events, promotional events, and other civic or charitable events;

(2) a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, park, performing arts center, museum, aquarium, or plaza that is located in the vicinity of a convention center or facility owned by a municipality or a county; and

(3) a facility related to a sports and community venue facility, including a store, restaurant, on-site hotel, concession, or other on-site or off-site improvement that relates to and enhances the use, value, or appeal of a sports and community venue, including an area adjacent to the venue, and any other expenditure reasonably necessary to construct, improve, renovate, or expand a venue, including an expenditure for environmental remediation. [FA5(6)]

No equivalent provision.

SECTION __.07. Section 8150.151, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.151. ROAD PROJECTS. (a) As authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate, inside and outside the district, roads and road improvements [~~facilities as defined by Chapter 441, Transportation Code~~].

(b) The roads and road improvements [~~facilities~~] authorized by Subsection (a) may include drainage, landscaping, pedestrian improvements, lights, signs, or signals that are incidental to the roads and their construction, maintenance, or operation.

(c) The roads and road improvements [~~facilities~~] authorized by this section must meet all applicable construction

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

standards, zoning and subdivision requirements, and regulatory ordinances of the city.

(d) On completion of a road or road improvement [~~facility~~] authorized by this section, the district, with the consent of the city, may convey the road or road improvement [~~facility~~] to the city if the conveyance is free of all indebtedness of the district. If the city becomes the owner of a road or road improvement [~~facility~~], the city is responsible for all future maintenance and upkeep and the district has no further responsibility for the road or road improvement [~~facility~~] or its maintenance or upkeep, unless otherwise agreed to by the district and the city. [FA5(6)]

No equivalent provision.

SECTION __.08. Section 8150.153, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.153. REIMBURSEMENT FOR ROAD PROJECT.

(a) The district may:

(1) reimburse a private person for money spent to construct a road or road improvement [~~facility~~] that is dedicated or otherwise transferred to public use; or

(2) purchase a road or road improvement [~~facility~~] constructed by a private person.

(b) The amount paid for the reimbursement or for the purchase of a road or road improvement [~~facility~~] under Subsection (a) may:

(1) include all construction costs, including engineering, legal, financing, and other expenses incident to the construction; or

(2) be at a price not to exceed the replacement cost of the road or road improvement [~~facility~~] as determined by the board.

(c) The reimbursement or purchase of a road or road

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

improvement ~~[facility]~~ may be paid for with proceeds from the sale of the district's bonds or from any other money available to the district.

(d) The district may enter into an agreement to use the proceeds of a subsequent bond sale to reimburse a private person under this section. The agreement may provide the terms and conditions under which the road or road improvement ~~[facility]~~ is to be dedicated or transferred for the benefit of the public. [FA5(6)]

No equivalent provision.

SECTION __.09. Subsection (a), Section 8150.201, Special District Local Laws Code, is amended to read as follows:

(a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue ~~[or contract payments]~~ from any source other than ad valorem taxation; or

(2) contract payments described by Section 8150.203.
[FA5(6)]

No equivalent provision.

SECTION __.010. The heading to Section 8150.202, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.202. OPERATION AND MAINTENANCE ~~[AD VALOREM]~~ TAX. [FA5(6)]

No equivalent provision.

SECTION __.011. Section 8150.202, Special District Local Laws Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) If authorized by a majority of the district voters voting at an election held for that purpose ~~[under Section 8150.201]~~, the district may impose an operation and maintenance ~~[annual ad~~

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

~~valorem] tax on taxable property in the district in accordance with Section 49.107, Water Code, for any district purpose, including to:~~

~~(1) operate and maintain the district;~~

~~(2) construct or acquire improvements; and~~

~~(3) provide a service [for the provision of services or for the maintenance and operation of the district, including the improvements constructed or acquired by the district].~~

~~(c) Section 49.107(h), Water Code, does not apply to the district. [FA5(6)]~~

No equivalent provision.

SECTION __.012. Subchapter E, Chapter 8150, Special District Local Laws Code, is amended by adding Sections 8150.203, 8150.204, 8150.205, 8150.206, 8150.207, and 8150.208 to read as follows:

Sec. 8150.203. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

Sec. 8150.204. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 8150.205. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) The petition must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 8150.206. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

Sec. 8150.207. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment under Subchapter F, Chapter 375, Local Government Code, for any purpose authorized by this chapter or Chapter 375, Local Government Code, in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 8150.208. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of a tax or assessment on property in the zones. [FA5(6)]

No equivalent provision.

SECTION __.013. Section 8150.251, Special District Local Laws Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(c) The limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645, Water Code, does not apply to the district. [FA5(6)]

No equivalent provision.

SECTION __.014. Section 8150.252, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.252. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time the district issues bonds [~~or other obligations~~] payable wholly or partly from ad valorem taxes, [~~are issued~~].

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

~~[(1)] the board shall provide for the annual imposition of [impose] a continuing direct annual ad valorem tax, without limit as to rate or amount, while [for each year that] all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code[; and [(2) the district annually shall impose the continuing direct annual ad valorem tax on all taxable property in the district in an amount sufficient to: [(A) pay the interest on the bonds or other obligations as the interest becomes due; [(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and [(C) pay the expenses of imposing the taxes]. [FA5(6)]~~

No equivalent provision.

SECTION __.015. Subchapter F, Chapter 8150, Special District Local Laws Code, is amended by adding Section 8150.257 to read as follows:
Sec. 8150.257. APPROVAL OF CERTAIN BONDS BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. Section 375.208, Local Government Code, applies to the district. [FA5(6)]

No equivalent provision.

SECTION __.016. (a) The Imperial Redevelopment District may not exercise a power granted by Section 8150.105, 8150.106, 8150.107, 8150.108, 8150.109, 8150.110, 8150.203, or 8150.208, Special District Local Laws Code, as added by this article, until the governing body of the City of Sugar Land consents to the power by adopting a resolution or ordinance. The governing body may consent to some or all of the sections through the resolution or ordinance. The

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

governing body may not modify a section.

(b) This section does not affect any consent or authorization granted by the City of Sugar Land to the Imperial Redevelopment District before the effective date of this article. [FA5(6)]

No equivalent provision.

SECTION __.017. This article does not affect bonds or other obligations issued before the effective date of this article. Bonds or other obligations issued before the effective date of this article are governed by the law in effect when the bonds or other obligations were issued, and that law is continued in effect for that purpose. [FA5(6)]

No equivalent provision.

SECTION __.018. Sections 8150.253, 8150.255, and 8150.256, Special District Local Laws Code, are repealed. [FA5(6)]

No equivalent provision.

SECTION __.019. (a) The legislature validates and confirms all acts and proceedings of the Board of Directors of the Imperial Redevelopment District that were taken before the effective date of this article.

(b) Subsection (a) of this section does not apply to any matter that on the effective date of this article:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court;

or

(2) has been held invalid by a final judgment of a court.

[FA5(6)]

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION __.020. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article have been fulfilled and accomplished. [FA5(6)]

No equivalent provision.

SECTION __.021. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2011. [FA5(6)]

No equivalent provision.

SECTION __. Section 1.03, Chapter 626, Acts of the 73rd

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Legislature, Regular Session, 1993, is amended by amending Subdivisions (6), (9), (10), (20), (21), and (25) and adding Subdivision (28) to read as follows:

(6) "Commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

(9) "Domestic ~~[or livestock]~~ use" means the use of water for:

(A) drinking, washing, or culinary purposes;

(B) irrigation of a family garden or orchard the produce of which is for household consumption only; or

(C) the watering of residential landscape of one-half acre or less or any other purpose incidental to and associated with domestic activities, provided that the primary purpose of the well is for the purposes of Paragraph (A) ~~[watering of animals]~~.

(10) "Existing user" means a person who has withdrawn and beneficially used groundwater ~~[underground water]~~ from the aquifer on or before June 1, 1993.

(20) "Groundwater" means water percolating beneath the surface of the earth ~~["Underground water" has the meaning assigned by Section 52.001, Water Code]~~.

(21) "Waste" means:

(A) withdrawal of groundwater ~~[underground water]~~ from the aquifer at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from the aquifer if the water produced is not used for a beneficial purpose;

(C) escape of groundwater ~~[underground water]~~ from the aquifer to any other reservoir that does not contain groundwater ~~[underground water]~~;

(D) pollution or harmful alteration of groundwater ~~[underground water]~~ in the aquifer by salt water or other deleterious matter admitted from another stratum or from the

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

surface of the ground;

(E) wilfully or negligently causing, suffering, or permitting groundwater [~~underground water~~] from the aquifer to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26, Water Code;

(F) groundwater [~~underground water~~] pumped from the aquifer for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or

(G) for water produced from an artesian well, "waste" has the meaning assigned by Section 11.205, Water Code.

(25) "Withdrawal" means an act or a failure to act that results in taking water from the aquifer by or through man-made facilities, including pumping, withdrawing, or diverting groundwater [~~underground water~~].

(28) "Livestock use" means the use of water for watering livestock or poultry. [FA11]

No equivalent provision.

SECTION __. Section 1.07, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.07. OWNERSHIP OF GROUNDWATER [~~UNDERGROUND WATER~~]. The ownership and rights of the owner of the land and the owner's lessees and assigns, including holders of recorded liens or other security interests in the land, in groundwater [~~underground water~~] and the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

potable water to the public for any use are recognized. However, action taken pursuant to this Act may not be construed as depriving or divesting the owner or the owner's lessees and assigns, including holders of recorded liens or other security interests in the land, of these ownership rights or as impairing the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of potable water to the public for any use, subject to the rules adopted by the authority ~~[or a district exercising the powers provided by Chapter 52, Water Code]~~. The legislature intends that just compensation be paid if implementation of this article causes a taking of private property or the impairment of a contract in contravention of the Texas or federal constitution. [FA11]

No equivalent provision.

SECTION __. Sections 1.08(a) and (b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) The authority has all of the powers, rights, and privileges necessary to manage, conserve, preserve, and protect the aquifer and to increase the recharge of, and prevent the waste or pollution of water in, the aquifer. The authority has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and ~~[50,]~~ 51, ~~[and 52,]~~ Water Code, applicable to an authority created under Article XVI, Section 59, of the Texas Constitution. This article prevails over any provision of general law that is in conflict or inconsistent with this article regarding the area of the authority's jurisdiction. Chapter 36, Water Code, does not apply to the authority.

(b) The authority's powers regarding groundwater ~~[underground water]~~ apply only to groundwater ~~[underground~~

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

~~water~~] within or withdrawn from the aquifer. This section ~~[subsection]~~ is not intended to allow the authority to regulate surface water. [FA11]

No equivalent provision.

SECTION __. Section 1.09, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (d) and adding Subsection (i) to read as follows:
(d) Section ~~[Sections 41.003 and]~~ 41.008, Election Code, does ~~[do]~~ not apply to an election held under this article.
(i) A member of a governing body of another political subdivision is ineligible for appointment or election as a director of the authority. A director of the authority is disqualified and vacates the office of director if the director is appointed or elected as a member of the governing body of another political subdivision. [FA11]

No equivalent provision.

SECTION __. Section 1.10(h), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:
(h) The presiding officer of the advisory committee shall submit a report assessing the effectiveness of the authority to the commission and the authority by December ~~[March]~~ 31 of each even-numbered year. The report must assess the effect on downstream water rights of the management of the aquifer. The authority shall consider the report in managing the authority's affairs. [FA11]

No equivalent provision.

SECTION __. Sections 1.11(d) and (g), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (d) The authority may:
- (1) issue or administer grants, loans, or other financial assistance to water users for water conservation and water reuse;
 - (2) enter into contracts;
 - (3) sue and be sued only in its own name;
 - (4) receive gifts, grants, awards, and loans for use in carrying out its powers and duties;
 - (5) hire an executive director to be the chief administrator of the authority and other employees as necessary to carry out its powers and duties;
 - (6) delegate the power to hire employees to the executive director of the authority;
 - (7) own real and personal property;
 - (8) close abandoned, wasteful, or dangerous wells;
 - (9) hold permits under state law or under federal law pertaining to the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.) and its amendments;
 - (10) enforce Chapter 1901 [32], Occupations Code [Water Code], and Texas Department of Licensing and Regulation [commission] rules adopted under that chapter [Act] within the authority's boundaries; and
 - (11) require to be furnished to the authority water well drillers' logs that are required by Chapter 1901 [32], Occupations Code [Water Code], to be kept and furnished to the Texas Department of Licensing and Regulation [commission].
- (g) The authority has the power of eminent domain. The authority may not acquire rights to groundwater [underground water] by the power of eminent domain. [FA11]

No equivalent provision.

SECTION __. Section 1.13, Chapter 626, Acts of the 73rd

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.13. REUSE AUTHORIZED. Any regulation of the withdrawal of water from the aquifer must allow for credit to be given for certified reuse of the water. For regulatory credit, the authority [~~or a local underground water conservation district~~] must certify:

- (1) the lawful use and reuse of aquifer water;
 - (2) the amount of aquifer water to be used; and
 - (3) the amount of aquifer withdrawals replaced by reuse.
- [FA11]

No equivalent provision.

SECTION __. Section 1.14(e), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement or [₅] test [~~or exempt~~] wells or wells exempt under Section 1.33 of this article or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit. [FA11]

No equivalent provision.

SECTION __. Section 1.15, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) A permit issued by the authority to an applicant must state the terms and provisions prescribed by the authority. Each groundwater withdrawal permit must specify the maximum rate and total volume of water that the water user may withdraw in a calendar year.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(d-1) A permit may include:

(1) the name and address of the person to whom the permit is issued;

(2) the location of the well;

(3) the term of the permit, including the date the permit is to expire;

(4) a statement of the purpose for which the well is to be used;

(5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;

(6) the location at which the water from the well will be used;

(7) a water well closure plan or a declaration that the applicant will comply with the authority's well closure requirements and notify the authority of the closure;

(8) conditions and restrictions on the rate and amount of withdrawal;

(9) conservation requirements prescribed by the authority;

(10) a drought contingency plan prescribed by the authority;
and

(11) other terms and conditions the authority determines reasonable and appropriate. [FA11]

No equivalent provision.

SECTION __. Sections 1.16(a), (b), and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) An existing user may apply for an initial regular permit by filing a declaration of historical use of groundwater [~~underground water~~] withdrawn from the aquifer during the historical period from June 1, 1972, through May 31, 1993.

(b) An existing user's declaration of historical use must be filed on or before December 30, 1996 [~~March 1, 1994~~], on a form prescribed by the board. An applicant for a permit must

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

timely pay all application fees required by the board. An owner of a well used for irrigation must include additional documentation of the number of acres irrigated during the historical period provided by Subsection (a) of this section.

(d) The board shall grant an initial regular permit to an existing user who:

(1) files a declaration and pays fees as required by this section; and

(2) establishes by convincing evidence beneficial use of groundwater [~~underground water~~] from the aquifer. [FA11]

No equivalent provision.

SECTION __. Sections 1.17(a) and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) A person who, on the effective date of this article, owns a producing well that withdraws water from the aquifer may continue to withdraw and beneficially use water without waste until final action on permits by the authority, if:

(1) the well is in compliance with all statutes and rules relating to well construction, approval, location, spacing, and operation; and

(2) by December 30, 1996 [~~March 1, 1994~~], the person files a declaration of historical use on a form as required by the authority.

(d) Interim authorization for a well under this section ends on:

(1) entry of a final and appealable order by the authority acting on the application for the well; or

(2) December 30, 1996 [~~March 1, 1994~~], if the well owner has not filed a declaration of historical use. [FA11]

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION __. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Sections 1.21 and 1.211 to read as follows:

Sec. 1.21. CONTESTED CASE HEARINGS; REQUEST FOR REHEARING OR FINDINGS AND CONCLUSIONS.

(a) The authority, by rule, shall define under what circumstances an application is considered contested and shall limit participation in a hearing on a contested application held in accordance with authority rules to persons who have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by an application, not including persons who have an interest common to members of the public.

(b) Except as provided by Subsection (c) of this section, an applicant or a party to a contested hearing may file a request for rehearing not later than the 20th day after the date of the board's decision.

(c) An applicant or a party to a contested hearing may request written findings of fact and conclusions of law not later than the 20th day after the date of the board's decision on the application. On receipt of a timely filed written request under this subsection, the board shall make written findings of fact and conclusions of law regarding a decision of the board on the application. The board shall provide copies of the findings of fact and conclusions of law to the person who requested them, and to each person who provided comments at the initial hearing or each designated party, not later than the 35th day after the date the board received the request. A person who receives a copy of the findings of fact and conclusions of law from the board may request a rehearing before the board not later than the 20th day after the date the board issues the findings of fact and conclusions of law.

(d) A request for rehearing on a contested matter must be

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

filed in the authority's office and must state the grounds for the request.

(e) If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted.

(f) The failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted constitutes a denial of the request.

Sec. 1.211. APPLICATION DECISION; WHEN FINAL. (a)

A decision by the board on an application is final:

(1) if a request for rehearing is not timely filed, on the expiration of the period for filing a request for rehearing; or

(2) if a request for rehearing is timely filed, on the date:

(A) the board denies the request for rehearing; or

(B) the board renders a written decision after rehearing.

(b) A timely filed motion for rehearing challenging a decision in a contested hearing is a prerequisite to a suit against the authority under Section 1.46 of this article. A suit under that section may be filed not later than the 60th day after the date on which the decision becomes final. [FA11]

No equivalent provision.

SECTION __. Section 1.22(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority may acquire, ~~and~~ hold, and transfer permits or rights to appropriate surface water or groundwater from sources inside or outside of the authority's boundaries. The authority may transport and distribute surface water or groundwater as necessary to accomplish the powers and duties authorized by this article or other applicable law. [FA11]

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION __. Section 1.25, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.25. GROUNDWATER [~~COMPREHENSIVE~~] MANAGEMENT PLAN. (a) Consistent with Section 1.14 of this article, after notice and hearing, the authority shall develop[, ~~by September 1, 1995,~~] and implement a groundwater [~~comprehensive water~~] management plan that includes conservation, future supply, and demand management plans. The authority may not delegate the development of the plan under Section 1.42 of this article.

(b) The authority shall develop the groundwater management plan, and any amendment to the plan, using the best available data that the authority has obtained and forward the plan, and any amendment to the plan, to the appropriate regional water planning group for use in the group's planning process [~~The authority, in conjunction with the South Central Texas Water Advisory Committee, the Texas Water Development Board, and underground water conservation districts within the authority's boundaries, shall develop a 20-year plan for providing alternative supplies of water to the region, with five-year goals and objectives, to be implemented by the authority and reviewed annually by the appropriate state agencies and the Edwards Aquifer Legislative Oversight Committee. The authority, advisory committee, Texas Water Development Board, and districts, in developing the plan, shall:~~

- ~~[(1) thoroughly investigate all alternative technologies;~~
- ~~[(2) investigate mechanisms for providing financial assistance for alternative supplies through the Texas Water Development Board; and~~
- ~~[(3) perform a cost-benefit analysis and an environmental analysis].~~

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(c) On request by the authority, the commission and the Texas Water Development Board shall provide technical assistance to the authority in the development of the groundwater management plan. The technical assistance provided may include a preliminary review and comment on the plan prior to final certification by the executive administrator of the Texas Water Development Board. If such review and comment by the commission is requested, the commission shall provide comment not later than the 30th day after the date the request is received.

(d) On request of the executive director of the commission or the executive administrator of the Texas Water Development Board, the authority shall make available information that it acquires concerning the aquifer and information concerning its plans and activities in conserving and protecting the aquifer. On request of the authority, the executive director and the executive administrator shall provide information they acquire concerning the aquifer within the authority's jurisdiction.

(e) In the groundwater management plan, the authority shall:

(1) identify the performance standards and management objectives under which the authority will operate to achieve its aquifer management goals;

(2) specify the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules;

(3) include estimates of the following:

(A) the amount of groundwater being used within the authority on an annual basis;

(B) the annual amount of recharge to the aquifer;

(C) the annual volume of water that discharges from the aquifer to springs;

(D) the annual volume of flow into and out of the authority's

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

jurisdiction within the aquifer and between the aquifer and other aquifers within the authority's boundaries, if an appropriate groundwater availability model is available;

(E) the projected surface water supply in the authority according to the most recently adopted state water plan; and

(F) the projected total demand for water in the authority according to the most recently adopted state water plan; and

(4) consider the water supply needs and water management strategies included in the adopted state water plan.

(f) The authority shall adopt amendments to the groundwater management plan as necessary. An amendment to the plan may be adopted only after notice and hearing. An amendment to the plan shall be submitted to the executive administrator of the Texas Water Development Board not later than the 60th day after the date the amendment is adopted by the board. The executive administrator shall review and certify any amendment in accordance with the procedures established in this section.

(g) The authority shall, not later than December 31, 2015, submit its next groundwater management plan to the executive administrator of the Texas Water Development Board for review and certification.

(h) Not later than the 60th day after the date of receipt of the groundwater management plan adopted by the board, the executive administrator of the Texas Water Development Board shall certify the plan if the plan is administratively complete. The plan is administratively complete if it contains the information required by this section. Once the executive administrator has certified the plan, the executive administrator may not decertify the plan.

(i) The groundwater management plan takes effect on certification by the executive administrator of the Texas Water Development Board.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(j) The authority shall review its groundwater management plan annually and must review and readopt the plan with or without amendments at least once every five years. The authority shall provide the readopted plan to the executive administrator of the Texas Water Development Board not later than the 60th day after the date on which the plan was readopted by the board. Certification of the preceding plan remains in effect until the executive administrator has certified the readopted plan.

(k) If the executive administrator of the Texas Water Development Board does not certify the groundwater management plan, the executive administrator shall provide to the authority, in writing, the reasons for the action. Not later than the 180th day after the date the authority receives notice that its plan has not been certified, the authority may submit a revised plan for review and certification. The executive administrator's decision may be appealed to the Texas Water Development Board. If the Texas Water Development Board decides not to certify the plan on appeal, the authority may request that the conflict be mediated. The authority and the Texas Water Development Board may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas at Austin School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the parties do not resolve the conflict through mediation, the decision of the Texas Water Development Board not to certify the plan may be appealed to a district court in Travis County. Costs for the appeal shall be set by the court hearing the

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

appeal. An appeal under this subsection is by trial de novo.
[FA11]

No equivalent provision.

SECTION __. Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsections (f), (g), (h), and (i) to read as follows:

(f) In addition to the fees assessed under Subsection (b) of this section, the authority may assess fees to recover administrative costs such as filing and processing applications and registrations. The fees may not unreasonably exceed the administrative costs. [~~The authority shall impose a permit application fee not to exceed \$25.~~]

(g) [~~The authority may impose a registration application fee not to exceed \$10.~~]

~~(h)~~ Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements.

(h) ~~(i)~~ The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article. [FA11]

No equivalent provision.

SECTION __. Section 1.30(e), Chapter 626, Acts of the 73rd

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Legislature, Regular Session, 1993, is amended to read as follows:

(e) Section [~~Sections 11.028 and~~] 11.033, Water Code, does [~~do~~] not apply to a permit issued under this section. [FA11]

No equivalent provision.

SECTION __. Section 1.31(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority is responsible for the costs of purchasing, installing, and maintaining measuring devices, if required, for an irrigation well in existence on June 28, 1996 [~~September 1, 1993~~]. [FA11]

No equivalent provision.

SECTION __. Section 1.33, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.33. WELL METERING EXEMPTION. (a) Except as provided by Subsections (d) and (e) of this section, a [~~A~~] well that is drilled, completed, or equipped so that it is incapable of producing more than [~~produces~~] 25,000 gallons of water per [~~a~~] day and is and will be used exclusively [~~or less~~] for domestic use or livestock use is exempt from metering and withdrawal permit requirements.

(b) A well drilled on or before June 1, 2011, that is incapable of producing more than 1,250 gallons of water per day or that is metered and does not produce more than 1,250 gallons of water per day for any purpose authorized in this article is exempt from withdrawal permit requirements. Multiple wells may not be used in combination in a manner to satisfy a single water use or purpose, that when combined, would not come within the requirements of this subsection.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(c) A well that is exempt under Subsection (a) or (b) of this section [Exempt wells] must be registered [register] with the authority [or with an underground water conservation district in which the well is located].

(d) [(e)] A well that meets the requirements of Subsection (a) of this section [within or serving a subdivision requiring platting] does not qualify for an exemption if the well:

(1) serves a subdivision of land requiring plat approval under Chapter 232, Local Government Code;

(2) supplies water to a public water system as defined by 30 T.A.C. Section 290.38; or

(3) produces groundwater for domestic use, was drilled on or before June 1, 2011, and is on a tract of land with a residence that receives water service from a retail public utility as defined by Section 13.002, Water Code [exempt use].

(e) A well drilled after June 1, 2011, that meets the requirements of Subsection (a) of this section, is exempt from metering and withdrawal permit requirements only if the well is on a tract of land larger than 10 acres. [FA11]

No equivalent provision.

SECTION __. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.361 to read as follows:

Sec. 1.361. ABANDONED, OPEN, UNCOVERED, OR DETERIORATED WELLS. (a) If the owner or lessee of land on which an abandoned, open, uncovered, or deteriorated well is located fails or refuses to close, cap, or plug the well in compliance with Chapter 1901, Occupations Code, and the authority's rules, the authority or its authorized employees, representatives, or agents may enter the land and close, cap, or plug the well in a safe and secure manner.

(b) Reasonable expenses incurred by the authority in closing,

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

capping, or plugging a well constitute a lien on the land on which the well is located.

(c) A lien described by Subsection (b) of this section arises and attaches after an affidavit executed by any person with knowledge of the facts of the closing, capping, or plugging is recorded in the deed records of the county where the well is located. The affidavit must contain:

(1) a statement or photograph confirming the existence of the well;

(2) the legal description of the property on which the well is located;

(3) a description of the approximate location of the well on the property;

(4) a statement confirming the failure or refusal of the owner or lessee, after notification, to close or cap the well within 10 days after the notification;

(5) a statement confirming the closing, capping, or plugging of the well by the authority, or by an authorized agent, representative, or employee of the authority; and

(6) a statement of the expenses incurred by the authority in closing, capping, or plugging the well.

(d) Nothing in this section affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code. [FA11]

No equivalent provision.

SECTION __. Sections 1.37(j), (n), and (r), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(j) Within 30 days after the date the authority's order is final as provided by Section 2001.144(a), Government Code [~~Subsection (e), Section 16, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~], the person shall:

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (1) pay the amount of the penalty;
 - (2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or
 - (3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.
- (n) Judicial review of the order of the authority:
- (1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code [~~Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~]; and
 - (2) is under the substantial evidence rule.
- (r) All proceedings under this section are subject to Chapter 2001, Government Code [~~the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~]. [FA11]

No equivalent provision.

SECTION __. Section 1.38, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.38. INJUNCTION BY AUTHORITY. (a) The authority may file a civil suit in a state district court for an injunction or mandatory injunction to enforce this article. The authority may recover reasonable attorney fees in a suit under this section.

(b) In an enforcement action by the authority against a governmental entity for a violation of authority rules, the limits on the amount of fees, costs, and penalties that the authority may impose under this section constitute a limit of

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

the governmental entity's liability for the violation. This subsection shall not be construed to prohibit the recovery by the authority of fees and costs under this article in an action against a governmental entity. [FA11]

No equivalent provision.

SECTION __. Sections 1.42(a), (b), and (c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) A groundwater [~~An underground water~~] conservation district other than the authority may manage and control water that is a part of the aquifer after the effective date of this article only as provided in this section. This article does not affect a water reclamation or conservation district that manages and controls only water from a resource other than the aquifer.

(b) A groundwater [~~An underground water~~] conservation district other than the authority may manage and control water that is a part of the aquifer to the extent that those management activities do not conflict with and are not duplicative of this article or the rules and orders of the authority.

(c) Except as otherwise provided by this article, the board may delegate the powers and duties granted to it under this article. The board shall delegate all or part of its powers or duties to a groundwater [~~an underground water~~] conservation district on the district's request if the district demonstrates to the satisfaction of the board that:

- (1) the district has statutory powers necessary for full enforcement of the rules and orders to be delegated;
 - (2) the district has implemented all rules and policies necessary to fully implement the programs to be delegated;
- and

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(3) the district has implemented a system designed to provide the authority with adequate information with which to monitor the adequacy of the district's performance in enforcing board rules and orders. [FA11]

No equivalent provision.

SECTION __. Section 1.43, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.43. CREATION OF GROUNDWATER [~~UNDERGROUND~~—~~WATER~~] CONSERVATION DISTRICT. A groundwater [~~An underground water~~] conservation district may be created in any county affected by this article as provided by Subchapter B, Chapter 36 [~~52~~], Water Code. [FA11]

No equivalent provision.

SECTION __. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.46 to read as follows:

Sec. 1.46. SUITS. (a) An affected person dissatisfied with any authority rule, order, or act is entitled to file suit against the authority or its directors to challenge the validity of the rule, order, or act. The suit may be filed in any county in which the authority is located. The suit may be filed only after all administrative appeals to the authority are final. The burden of proof is on the petitioner, and the challenged rule, order, or act shall be deemed prima facie valid. The review on appeal is governed by Section 2001.038 or 2001.174, Government Code, as appropriate.

(b) If the authority prevails in a suit to enforce this article or its rules, orders, or acts, or in a suit other than a suit in which it voluntarily intervenes, the authority may seek and the court

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

shall grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the authority before the court. The court shall set the amount of the attorney's fees. [FA11]

No equivalent provision.

SECTION __. Section 4.02, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is transferred to Article 1 of that Act, redesignated as Section 1.47, and amended to read as follows:
Sec. 1.47 [~~4.02~~]. ORIGINAL EFFECTIVE DATES. This article [~~Act~~] takes effect June 28, 1996 [~~September 1, 1993~~], except Section 1.35 of Article 1 takes effect December 30, 1996 [~~March 1, 1994~~]. [FA11]

No equivalent provision.

SECTION __. Section 3.02, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:
Sec. 3.02. NOTICE OF AVAILABLE WATER. The Texas [~~Natural—Resource—Conservation~~] Commission on Environmental Quality shall notify the Edwards Aquifer Authority of any water available for appropriation in the Guadalupe-Blanco River Basin as the commission discovers the available water. [FA11]

No equivalent provision.

SECTION __. Section 36.205(e), Water Code, is amended to read as follows:
(e) Subsection (c) does not apply to the following districts:
(1) [~~the Edwards Aquifer Authority~~];
[~~(2)~~] the Fort Bend Subsidence District;
(2) [~~(3)~~] the Harris-Galveston Coastal Subsidence District;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(3) [~~(4)~~] the Barton Springs-Edwards Aquifer Conservation District; or
(4) [~~(5)~~] any district that collects a property tax and that was created before September 1, 1999, unless otherwise authorized by special law. [FA11]

No equivalent provision.

SECTION __. The following laws are repealed:
(1) Section 1.41(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and
(2) Sections 36.101(l), 36.1011(e), and 36.419, Water Code. [FA11]

No equivalent provision.

SECTION __. (a) A suit based on or derived from Chapter 36, Water Code, contesting the validity or implementation of Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, or a rule, order, or other action of the Edwards Aquifer Authority under that article may not be instituted in a state court.
(b) A person may not institute or maintain a suit against the Edwards Aquifer Authority based on or derived from Chapter 36, Water Code, for any injury or potential injury, including any injury or potential injury caused by an action taken by the authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, or a rule, order, or other action of the authority under that article.
(c) The changes in law made by this Act to Chapter 36, Water Code, apply only to a cause of action against the Edwards Aquifer Authority filed on or after the effective date of this Act. A cause of action filed before the effective date of this Act is governed by the law in effect when the cause of action was filed, and the former law is continued in effect for that

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

purpose. [FA11]

No equivalent provision.

SECTION __. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished. [FA11]

No equivalent provision.

SECTION __. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9016 to read as follows:

CHAPTER 9016. MIDLAND COUNTY UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9016.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "County" means Midland County.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (4) "Director" means a board member.
- (5) "District" means the Midland County Utility District.
- (6) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction any part of the district is located.
- Sec. 9016.002. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.
- Sec. 9016.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.
- Sec. 9016.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 9016.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.
- Sec. 9016.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.
- (b) The district is created to accomplish the purposes of a water control and improvement district as provided by general law and Section 59, Article XVI, Texas Constitution.
- Sec. 9016.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.
- (b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:
- (1) organization, existence, or validity;
- (2) right to issue any type of bond for the purposes for which

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 9016.007-9016.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9016.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (c), the district is governed by a board of five elected directors.

(b) Except as provided by Section 9016.052, directors serve staggered four-year terms.

(c) If the municipality annexes any part of the territory of the district, the municipality shall appoint one ex officio member to the board to serve as a sixth director.

Sec. 9016.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Shelton Viney;

(2) Susie Hitchcock-Hall;

(3) Alan Lang;

(4) David Orr; and

(5) Israel Rodriguez.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 9016.003; or

(2) September 1, 2015.

(c) If permanent directors have not been elected under Section 9016.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 9016.003; or

(2) the fourth anniversary of the date of the appointment or

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

Sec. 9016.053. NOTICE OF MEETINGS. The district shall provide the municipality with written notice before a meeting of the board.

[Sections 9016.054-9016.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9016.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 9016.102. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

Sec. 9016.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 42.042, Local Government Code, and Section 9016.004 and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 9016.104. COMPLIANCE WITH MUNICIPAL REGULATIONS. (a) Any water, sanitary sewer, drainage, or other infrastructure or public facilities constructed, acquired, improved, maintained, or operated by the district shall comply

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

with any applicable regulations of the municipality in whose corporate limits or extraterritorial jurisdiction the infrastructure or facilities are located.

(b) Any water system constructed, acquired, improved, maintained, or operated by the district shall:

(1) comply with any applicable regulations of the municipality regarding specifications for rural density; and

(2) contain distribution lines that are:

(A) four inches or more in diameter; and

(B) sufficient to provide fire hydrant service according to the municipality's specifications for rural density.

Sec. 9016.105. COUNTY RIGHT-OF-WAY. The district must obtain the approval of the county's governing body of the plans and specifications of any facilities to be installed on property located in a county right-of-way.

Sec. 9016.106. LIABILITY. (a) Neither the county nor the municipality is liable for any claims arising from the operation of the district's water system or other actions or inactions of the district, including labor, safety, or signage, or contamination or other environmental issues.

(b) Any action taken by the municipality is a governmental function.

Sec. 9016.107. COSTS OF LINE RELOCATION. (a) The district is solely responsible for the expense associated with the relocation of any district water line required by:

(1) the county or a municipality; or

(2) a state or federal highway authority, including the Texas Department of Transportation and the Federal Highway Administration.

(b) The district will not unreasonably delay any requested line relocation.

Sec. 9016.108. SERVICES TO BE PROVIDED BY THE DISTRICT, COUNTY, OR MUNICIPALITY. (a) The

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

district may enter into an interlocal contract with the county or municipality to provide governmental functions, including fire protection, trash collection and disposal, and ambulance service.

(b) Notwithstanding Subsection (a), the municipality is authorized to provide sewer and drainage service in the district. The municipality shall establish the amount of the fees to be charged to recipients of sewer and drainage service under this subsection.

(c) Notwithstanding Subsection (a), the district may not provide any services within the territorial limits of the municipality as those limits exist on September 1, 2011.

Sec. 9016.109. ANNEXATION BY MUNICIPALITY. (a) The municipality may annex a part of the territory of the district without annexing the entire territory of the district.

(b) If the municipality annexes all or part of the district:

(1) the annexed territory is not removed from the district; and

(2) the district is not:

(A) dissolved; or

(B) prevented from providing district services to the annexed territory.

(c) If any territory inside the district is annexed, the owner of the property shall pay the same rate of ad valorem tax to the municipality as other residents of the municipality.

(d) By annexing territory in the district, the municipality does not assume any debt of the district.

(e) The district may not contest an annexation by the municipality.

Sec. 9016.110. WATER SERVICE DEADLINE. The district must begin operation of a water system serving at least a part of the district not later than the sixth anniversary of the date that district voters approve the issuance of bonds to provide for the development of the water system.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Sec. 9016.111. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain:

(1) outside the district to acquire a site or easement for a recreational facility as defined by Section 49.462, Water Code;

(2) in the corporate limits of the municipality as those limits exist on September 1, 2011 ; or

(3) outside the county.

Sec. 9016.112. PROHIBITION ON DIVISION OF DISTRICT. The district may not divide into two or more districts.

[Sections 9016.113-9016.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9016.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 9016.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 9016.152. OPERATION AND MAINTENANCE TAX.

(a) If authorized at an election held under Section 9016.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

exceed the rate approved at the election.

Sec. 9016.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 9016.154-9016.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 9016.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 9016.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Section 51.433, Water Code.

Sec. 9016.203. LIMITATION ON TAX RATE. Notwithstanding any other provision of this chapter, the projected combined operation, maintenance, and debt service tax rates as of the date of the issuance of any bonds, as described by the commission in a commission order approving the issuance of the bonds, may not exceed 65 cents for each \$100 of assessed valuation of property in the district.

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Sec. 9016.204. BONDS AND OTHER OBLIGATIONS NOT TO BE PAID BY MUNICIPALITY OR COUNTY. Bonds or other obligations of the district:

(1) may not be paid wholly or partly by taxes imposed by the county or the municipality;

(2) are not debts of the county or municipality; and

(3) do not give rise to a claim against the county or municipality. [FA13,FA14]

No equivalent provision.

SECTION __. The Midland County Utility District initially includes all the territory contained in the following area:

54,050 Acres of Land

Located in Various Sections and Blocks,

T&P RR Co. Survey, Midland County, Texas.

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y= 10,677,038' and X= 1,736,917') a point in the west line of Section 7, Block 39, T2S and a southerly line of Midland city limits and being the most westerly northwest corner of this tract;

THENCE S 14°19' E, a distance of 2685 feet to the southwest corner of said Section 7 and being an ell corner of this tract;

THENCE N 75°10' E with the south right-of-way line of West County Road 120, a distance of 7031 feet to a point in the north line of Section 17 this block for a point of deflection of this tract;

THENCE S 64°46' E, a distance of 4725 feet to a point in the east line of said Section 17 and in the west right-of-way line of South County Road 1210 also being a point of deflection of this tract;

THENCE S 14°23' E with the west right-of-way line of said South County Road 1210, a distance of 6340 feet to a point in

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

the north right-of-way line of West County Road 138 and being an ell corner of this tract;
THENCE S 75°41' W with the north right-of-way line of said West County Road 138, a distance of 3340 feet to a point in the west right-of-way line of South County Road 1216 and being an ell corner of this tract;
THENCE S 14°52' E with the west right-of-way line of said South County Road 1216, a distance of 1272 feet to a point in the north right-of-way line of West County Road 140 and being an ell corner of this tract;
THENCE S 75°29' W with the north right-of-way line of said West County Road 140, a distance of 1974 feet to a point near the northwest corner of Section 29, Block 39, T2S and being an ell corner of this tract;
THENCE S 14°16' E, a distance of 26,411 feet to a point near the southwest corner of Section 6, Block 39, T3S and being the most southerly southwest corner of this tract;
THENCE N 75°59' E, a distance of 15,901 feet to a point in the east right-of-way line of State Highway 349 and being the most southerly southeast corner of this tract;
THENCE N 14°08' W with the east right-of-way line of said State Highway 349, a distance of 18,548 feet to a point near the southwest corner of Condor Aviation Co. Inc. tract and being an ell corner of this tract;
THENCE N 75°17' E, a distance of 5227 feet to a point in the east line of Section 35, Block 39, T2S and being an ell corner of this tract;
THENCE N 14°23' W, a distance of 1604 feet to a point for an ell corner of this tract;
THENCE N 76°20' E, a distance of 5414 feet to a point in the east right-of-way line of Farm to Market Road 715 and being an ell corner of this tract;
THENCE N 14°21' W with the east right-of-way line of said

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Farm to Market Road 715, a distance of 664 feet to a point for an ell corner of this tract;
THENCE N 75°23' E, a distance of 2628 feet to a point in the west half of Section 24, Block 38, T2S and being an ell corner of this tract;
THENCE S 14°03' E, a distance of 8251 feet to a point for an ell corner of this tract;
THENCE N 76°09' E, a distance of 2658 feet to a point in the east right-of-way line of South County Road 1160 and being an ell corner of this tract;
N 14°22' W with the east right-of-way line of said South County Road 1160, a distance of 3359 feet to a point in the south right-of-way line of East County Road 160 and being an ell corner of this tract;
THENCE N 75°38' E with the south right-of-way line of said East County Road 160, a distance of 10,581 feet to a point near the southeast corner of Section 22, Block 38, T2S and being an ell corner of this tract;
THENCE N 14°07' W with the east line of said Section 22, a distance of 5353 feet to a point near the northeast corner of said Section 22 and being an ell corner of this tract;
THENCE N 75°40' E, a distance of 1381 feet to a point near the southeast corner of George V. Anderson Jr. tract and the southwest corner of Donna Johnson tract also being an ell corner of this tract;
THENCE N 14°03' W with the west line of said Donna Johnson tract and the east line of said George V. Anderson Jr. tract, a distance of 1926 feet to a point near the northwest corner of said Donna Johnson tract and being an ell corner of this tract;
THENCE N 75°43' E, a distance of 1355 feet to a point in the east right-of-way line of South County Road 1136 and being an ell corner this tract;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

THENCE N 13°52' W with the east right-of-way line of said South County Road 1136, a distance of 8663 feet to a point in the southwesterly right-of-way of State Highway 158 and the south right-of-way line of East County Road 130 also being an ell corner of this tract;
THENCE N 75°27' E with the south right-of-way line of said East County Road 130, a distance of 3996 feet to a point for an ell corner of this tract;
THENCE N 13°57' W, a distance of 5272 feet to a point in the south right-of-way line of East County Road 120 and being an ell corner of this tract;
THENCE N 75°41' E with the south right-of-way line of said East County road 120, a distance of 14,750 feet to a point for an ell corner of this tract;
THENCE N 14°17' W, a distance of 5276 feet to a point near the northwest corner of Section 51, Block 37, T2S and being an ell corner of this tract;
THENCE N 74°54' E, a distance of 10,567 feet to a point in the east right-of-way line of Farm to Market Road 1379 and being the most easterly southeast corner of this tract;
THENCE N 13°59' W with the east right-of-way line of said Farm to Market Road 1379, a distance of 3955 feet to a point of deflection of this tract;
THENCE N 14°17' W, a distance of 20,565 feet to a point in the southeasterly right-of-way of Interstate Highway 20 and being the most easterly northeast corner of this tract;
THENCE S 59°40' W with the southeasterly right-of-way of said Interstate Highway 20, a distance of 22,345 feet to a point in the projection of North County Road 1120 and being a point of deflection of this tract;
THENCE N 14°09' W, a distance of 8118 feet to a point near the northeast Section 26, Block 38, T1S and being an ell corner of this tract;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

THENCE S 75°33' W with the north line of said Section 26, a distance of 2741 feet to a point for an ell corner of this tract;
THENCE N 13°46' W, a distance of 3300 feet to a point for an ell corner of this tract;
THENCE S 75°45' W, a distance of 2696 feet to a point in the west line of Section 23 and the east line of Section 22, Block 38, T1S and being an ell corner of this tract;
THENCE S 14°37' E with the west line of said Section 23 and the east line of said Section 22, a distance of 668 feet to a point for an ell corner of this tract;
THENCE S 75°34' W, a distance of 7949 feet to a point near the middle of Section 21, Block 38, T1S and being an ell corner of this tract;
THENCE N 14°18' W, a distance of 2716 feet to a point in the north line of said Section 21 and being an ell corner of this tract;
THENCE S 75°23' W, a distance of 4294 feet to a point in the north line of Section 20, Block 38, T1S and being a point of deflection of this tract;
THENCE S 66°10' W, a distance of 3034 feet to a point in an easterly line of the Midland city limits and being the most northerly northwest corner of this tract;
THENCE S 14°33' E with said city limits, a distance of 5372 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°36' W with said city limits, a distance of 2511 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°34' E with said city limits, a distance of 180 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°36' W with said city limits, a distance of 835 feet to an ell corner of said city limits and being an ell corner

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

of this tract;
THENCE S 14°34' E with said city limits, a distance of 3832 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 75°36' E with said city limits, a distance of 2208 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°34' W with said city limits, a distance of 1204 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 75°36' E with said city limits, a distance of 1138 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 15°14' E with said city limits, a distance of 645 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 75°36' E with said city limits, a distance of 4603 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°35' E with said city limits, a distance of 5122 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 75°37' E with said city limits, a distance of 659 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°36' E with said city limits, a distance of 2879 feet to a point in the northwesterly right-of-way line of Business Interstate Highway 20 (US Highway 80) and the most easterly southeast corner of said city limits also being a point of deflection of this tract;
THENCE N 59°41' E with the northwesterly right-of-way line of said Business Interstate Highway 20, a distance of 4829 feet to a point near the northwest corner of Section 40, Block

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

38, T1S and being a point of deflection of this tract;
THENCE S 14°24' E, a distance of 7260 feet to a point in the east line of Section 45, Block 38, T1S and being 1000 feet southerly of the southeasterly right-of-way line of Interstate Highway 20 and being a point of deflection of this tract;
THENCE S 45°05' W 1000 feet southerly and parallel to the southeasterly right-of-way line of said Interstate Highway 20, a distance of 6527 feet to a point in the north line of Section 5, Block 38, T2S and in the south right-of-way line of Farm to Market Road 307 also being a point of deflection of this tract;
THENCE N 76°37' E with the south right-of-way line of said Farm to Market Road 307, a distance of 2882 feet to a point near the northeast corner of a 320 acre City of Midland tract in Section 4, Block 38, T2S and being an ell corner of this tract;
THENCE S14°25' E with the east line of said 320 acre tract, a distance of 5252 feet to a point in the south line of said Section 4 and the north line of Section 9, Block 38, T2S and being an ell corner of this tract;
THENCE N 75°36' E with the north line of said Section 9, a distance of 2768 feet to a point near the northeast corner of said Section 9 and in the west right-of-way South County Road 1140 also being an ell corner of this tract;
THENCE S 14°36' E with the west right-of-way line of said South County Road 1140, a distance of 5313 feet to a point in the north right-of-way line of East County Road 120 and being an ell corner of this tract;
THENCE S 75°56' W with the north right-of-way line of said East County Road 120, a distance of 5150 to a point in the northeasterly right-of-way line of State Highway 158 and being a point of deflection of this tract;
THENCE N 70°55' W with the northeasterly right-of-way line of said State Highway 158, a distance of 4453 to a point near the most southerly southwest corner of a 365.58 acre City of

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Midland tract as described in Volume 2308, Page 3, Official Public Records of Midland County and the southeast corner of Ralph H White tract also being a point of deflection of this tract;

THENCE N 15°31' W with the east line of said Ralph H White tract and a west line of said City of Midland Tract, a distance of 732 feet to a point near the northeast corner of said Ralph H White tract and being a point of deflection of this tract;

THENCE N 70°36' W with the north line of said Ralph H White tract, a distance of 171 feet to a point near the northwest corner of said Ralph H White tract and in the east line of a 1.00 acre City of Midland tract as described in Volume 2308, Page 3, Official Public Records of Midland County and being a point of deflection of this tract;

THENCE S 15°31' E with the west line of said Ralph H White tract and the east line of said 1.00 acre City of Midland tract, a distance of 733 feet to a point in the northeasterly right of-way line of said State Highway 158 and being a point of deflection of this tract;

THENCE N 70°55' W with the south line of said 1.00 acre City of Midland tract and the northeasterly right-of-way line of said State Highway 158, a distance of 415 feet to the southwest corner of said 1.00 acre City of Midland tract and being a point of deflection of this tract;

THENCE N 15°31' W with the west line of said 1.00 acre City of Midland tract, a distance of 1252 feet to the northwest corner of said 1.00 acre City of Midland and being a point of deflection of said 365.58 acre City of Midland tract also being a point of deflection of this tract;

THENCE S 75°57' W with a south line of said 365.58 acre City of Midland tract, a distance of 1419 feet to a point in the west line of Section 8, Block 38, T2S and being an ell corner

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

of this tract;
THENCE N 14'10' W with the west line of said Section 8, a distance of 1274 feet to a point near the northwest corner of said Section 8 and being an ell corner of this tract;
THENCE N 75°49' E with the north line of said Section 8, a distance of 36 feet to a point near the southeast corner of Section 6, Block 38, T2S and being an ell corner of this tract;
THENCE N 14'12' W with the east line of said Section 6, a distance of 2124 feet to a point 1000 feet southerly of the southeasterly right-of-way line of said Interstate Highway 20 and being a point of deflection of this tract;
THENCE S 44°40' W southerly and parallel to the southeasterly right-of-way line of said Interstate Highway 20, a distance of 3968 feet to a point in the Midland city limits and being a point of deflection of this tract;
THENCE S 14°09' E with said city limits, a distance of 611 feet to the most southerly southeast corner of said city limits and being an ell corner of this tract;
THENCE S 75°32' W with the south line of said city limits, a distance of 10,595 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°23' E with the said city limits, a distance of 750 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°29' W with said city limits, a distance of 677 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°32' E with said city limits, a distance of 781 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°24' W with said city limits, a distance of 1675 feet to an ell corner of said city limits and being an ell corner of this tract;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

THENCE N 14°23' W with said city limits, a distance of 1041 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°29' W with said city limits, a distance of 1000 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°23' W said city limits, a distance of 500 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°37' W with said city limits, a distance of 3137 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°18' E with said city limits, a distance of 570 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°42' W with said city limits, a distance of 1660 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°18' W with said city limits, a distance of 567 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°37' W with said city limits, a distance of 3390 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 15°02' E with said city limits, a distance of 709 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 74°54' W with said city limits, a distance of 1040 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 15°03' E with said city limits, a distance of 90 feet to an ell corner of said city limits and being an ell corner of this tract;

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

THENCE S 75°34' W with said city limits, a distance of 1064 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°40' W with said city limits, a distance of 817 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°44' W with said city limits, a distance of 559 feet to a point of curvature of said city limits and this tract;

THENCE around a curve to the left in a southwesterly direction and with said city limits, said curve having a radius length of 10,509 feet, a delta angle of 16°04', an arc length of 2947 feet and a chord length of 2937 feet bearing S 67°42" W to a point of tangency of said city limits and this tract;

THENCE S 59°40' W with said city limits, a distance of 6362 feet to the Point of Beginning, containing approximately 54,050 acres of land, more or less.

Bearings, distances and coordinates are relative to the Texas Coordinate System, 1983 NAD, Central Zone based on City of Midland's G.I.S Digital Map. [FA13,FA14]

No equivalent provision.

SECTION __. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished. [FA13,FA14]

No equivalent provision.

SECTION __. (a) Section 9016.111, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 9016, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 9016.111 to read as follows:

Sec. 9016.111. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution. [FA13,FA14]

No equivalent provision.

ARTICLE __. HAYS COUNTY DEVELOPMENT DISTRICT NO. 1 [FA19(6)]

No equivalent provision.

SECTION __.01. Section 1, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The legislature finds that the creation of Hays County

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Development District No. 1 (the "district"), ~~and~~ the project approved by the Hays County Commissioners Court on January 11, 2000 (the "project"), and other improvement projects described by Section 5A will serve the public purpose of attracting visitors and tourists to Hays County and will result in employment and economic activity in the manner contemplated by Section 52-a, Article III, Texas Constitution, and Chapter 383, Local Government Code.

(c) The legislature further finds that the creation and operation of the district and the acquisition or financing of the project or an improvement project described by Section 5A by the district serve the purpose of Section 59, Article XVI, and Section 52, Article III, Texas Constitution, and that all steps necessary to create the district have been taken.

~~(d) The legislature further finds that the creation and continued operation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act. [FA19(6)]~~

No equivalent provision.

SECTION __.02. Section 5, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 5. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by Chapters 375 and 383, Local Government Code, to county development districts and municipal management districts and by Chapters 49 and 54, Water Code, to municipal utility districts.

~~(b) The district's rights, powers, privileges, authority, functions, and duties include, [including] but are not limited to:~~

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (1) the authority to levy, assess, and collect ad valorem taxes for the purposes approved at the elections conducted on November 7, 2000;
- (2) the authority, after approval by voters at an election conducted within the boundaries of the district, to levy, assess and collect taxes for maintenance and operating purposes in the manner set forth in Sections 49.107(a)-(e), Water Code, and for the repayment of bonds, notes, warrants, lease purchase agreements, certificates of assessment, certificates of participation in lease purchase agreements, and other interest-bearing obligations in the manner set forth in Sections 49.106(a)-(d), Water Code, and for all of the purposes for which the district may expend funds;
- (3) to establish, levy, and collect special assessments in the manner specified in Sections 375.111-375.124, Local Government Code; provided, however, that Sections 375.161-375.163, Local Government Code, shall not apply to the assessments imposed by the district;
- (4) to utilize funds, whether the funds are derived from ad valorem taxes, sales and use taxes, hotel occupancy taxes, assessments, revenues from the project, or any other source, for payment of projects or services in the manner authorized by Section 375.181, Local Government Code, Chapter 54, Water Code, and Chapter 383, Local Government Code;
- (5) to enter into obligations, including, but not limited to, lease purchase agreements, certificates of participation in lease purchase agreements, general obligation bonds and notes and revenue bonds and notes, and combination general obligation and revenue bonds and notes and other interest-bearing obligations, in the manner specified in Sections 375.201-375.205 [~~375.201-375.204~~], Local Government Code. To enter into these obligations, the district shall obtain only those approvals required for the issuance of obligations

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

by Hays County by Chapter 53, Acts of the 70th Legislature, Second Called Session, 1987, and the approval of the attorney general;

(6) except as provided by Sections 5B and 5C, to adopt the powers of a road district under Section 52(b)(3), Article III, Texas Constitution, in the manner specified in Sections 53.029(c) and (d), Water Code;

(7) to levy, assess, and collect ad valorem taxes to make payments on a contract under Sections 49.108(a)-(d), Water Code, after obtaining those approvals specified in Section 1, Chapter 778, Acts of the 74th Legislature, Regular Session, 1995;

(8) to exercise all of the rights, powers, and authority of a road district, a municipal management district, and a municipal utility district [~~water control and improvement district which are not specifically contradicted by Chapter 383, Local Government Code~~]; and

(9) to exercise all of the rights, powers, and authority granted to the district by this Act, and all of the rights, powers, and authority granted to the district by Chapters 383 and 375, Local Government Code, and to a municipal utility district by Chapters 49 and 54, Water Code, which are not contrary to [~~any provisions of~~] this Act, to finance, construct, or otherwise acquire an improvement project described by Section 5A or the project or any element of the project identified in the Commissioners Court Order Upon Hearing and Granting Petition Requesting the Creation of Hays County Development District No. 1 and Appointing Temporary Directors dated January 11, 2000, including, but not limited to, a [~~the~~] hotel, a residential area of a development, a trail or related feature, a commercial activity or endeavor, a [~~the~~] golf course, the water, sewer, drainage, and road improvements, [~~the~~] organizational costs, and [~~the~~] costs of issuance of the

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

obligations of the district. [FA19(6)]

No equivalent provision.

SECTION __.03. Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Sections 5A, 5B, 5C, 5D, and 5E to read as follows:

Sec. 5A. IMPROVEMENT PROJECTS. The district may provide, or it may contract with a governmental or private entity to provide, the following types of improvement projects or activities in support of or incidental to those projects:

(1) the project approved by the Hays County Commissioners Court on January 11, 2000, wholly or partly; or

(2) a public improvement, facility, or service provided by a municipal utility district or municipal management district.

Sec. 5B. ROAD DISTRICT POWERS; BALLOT. If the district adopts the powers described by Section 5(b)(6), a ballot authorized by Section 53.029(c), Water Code, must reference the "Hays County Development District No. 1."

Sec. 5C. ROAD STANDARDS AND REQUIREMENTS.

(a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 5D. LIMIT ON POWERS GRANTED BY OTHER SPECIAL DISTRICT LAWS. Except as provided by this

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Act, the rights, powers, and authority of a road district, county development district, municipal management district, or municipal utility district granted by this Act may be exercised only in the manner provided by:

(1) Chapter 375, Local Government Code, to a municipal management district;

(2) Chapter 383, Local Government Code, to a county development district; and

(3) Chapters 49 and 54, Water Code, to a municipal utility district, including review and approval by the Texas Commission on Environmental Quality for water and wastewater improvements.

Sec. 5E. LIMIT ON EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain outside the district and in the corporate limits or extraterritorial jurisdiction of a municipality unless the governing body of the municipality consents by ordinance or resolution. [FA19(6)]

No equivalent provision.

SECTION __.04. Section 8, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 8. LEGISLATIVE FINDINGS. [~~The legislature finds that the principal function of the district is to provide for development and operation of the project, to facilitate economic development, and to attract visitors and tourists, which will result in employment and economic activity in Hays County.~~] The legislature finds that the district may provide water and sewer, landscaping, road, drainage, and reclamation services to residential retail or commercial customers in the district. Except for purposes of Section 49.052, Water Code, the [The] district is a district described in Section 49.181(h)(4), Water Code. [FA19(6)]

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION __.05. Section 9, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 9. ADDITION AND EXCLUSION OF LANDS. (a) Except as provided by Subsection (b), in [H] addition to the authority granted to the district by Section 383.084, Local Government Code, the district may add lands in the manner provided by Section 49.301, Water Code, and may exclude lands in the methods provided by Sections 49.303 through 49.308, Water Code.

(b) Section 42.0425, Local Government Code, applies to the annexation of property in the extraterritorial jurisdiction of a municipality. [FA19(6)]

No equivalent provision.

SECTION __.06. The legislature confirms and validates all actions of the Hays County Development District No. 1 that were taken before May 1, 2011, including any elections conducted by the district, including any election to impose maintenance and operation taxes or to adopt the powers of a road district. [FA19(6)]

No equivalent provision.

SECTION __.07. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The Texas Commission on Environmental Quality has

House Bill 725
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished. [FA19(6)]

No equivalent provision.

SECTION __.08. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2011. [FA19(6)]