

BILL ANALYSIS

C.S.H.B. 890
By: Workman
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The West Travis County Public Utility Agency, consisting of certain Central Texas entities, was created to purchase certain water and wastewater systems sold by the Lower Colorado River Authority and to keep these water and wastewater systems under public ownership. Interested parties contend that the area would benefit from the conversion of the agency into a conservation and reclamation district. C.S.H.B. 890 seeks to address this issue.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 890 amends the Special District Local Laws Code to convert the West Travis County Public Utility Agency to a conservation and reclamation district located in Hays and Travis Counties, to be known as the Hill Country Regional Water Authority, in order to provide certain improvements, projects, and services for public use and benefit. The bill confers on the authority, in addition to the general powers and duties provided by law to a special water authority, with certain exceptions and subject to certain requirements or restrictions, the authorization to provide water supply and wastewater services; adopt and enforce policies, rules, and bylaws; extend service to new customers inside or outside the authority's boundaries; acquire, construct, maintain, and operate certain systems; implement water conservation or drought contingency plans; enter a contract, including an interlocal contract, or execute an instrument; accept conveyance of a member entity's utility system facility or asset or interest in such system or asset; impose fees and administrative penalties; and issue revenue bonds or notes. The bill prohibits the authority from imposing property taxes or a special assessment.

C.S.H.B. 890 provides for the authority's governance by a five-member board of directors serving staggered four-year terms and specifies the appointment of specific individuals to the initial board of directors. The bill establishes age and residency requirements for eligibility to serve as a board member and sets out the manner of appointments to and the filling of vacancies on the board by member entities. The bill authorizes service on the authority's board of directors by an employee, officer, or board member of a governing body of a public entity and includes conflict of interest provisions for such a board member who has a personal interest in a contract executed by the authority. The bill specifies that a board member serves without compensation but authorizes reimbursements for travel and other expenses under certain conditions. The bill establishes that a majority of the board membership constitutes a quorum for any meeting and that a concurrence of such a quorum is sufficient for transacting any authority business. The bill provides for the election of board officers; for the removal of a board member from office at any time, with or without cause, by the appointing authority; and for the appointment of ex officio board members.

C.S.H.B. 890, on the bill's effective date, requires the Hill Country Regional Water Authority to assume all assets, liabilities, and obligations of the West Travis County Public Utility Agency;

establishes that all contracts and written agreements of the West Travis County Public Utility Agency are assigned to and assumed by the Hill Country Regional Water Authority; and establishes that the Utilities Installment Purchase Agreement entered January 17, 2012, between the Lower Colorado River Authority and the West Travis County Public Utility Agency, as amended, is assigned to and assumed by the Hill Country Regional Water Authority and is valid and enforceable by its terms. The bill establishes that governmental immunity from liability or suit is waived for the parties to enforce the Utilities Installment Purchase Agreement to the extent provided by statutory provisions relating to the adjudication of claims arising under written contracts with local government entities.

C.S.H.B. 890 establishes that any eminent domain powers granted by general law that apply to the Hill Country Regional Water Authority, as created by the bill, take effect only if the bill receives a two-thirds vote of all members elected to each house and prohibits the district, by statute, from exercising the power of eminent domain if the bill does not receive such a two-thirds vote.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 890 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. (a) The West Travis County Public Utility Agency is converted to a conservation and reclamation district to be known as the Hill Country Regional Water Authority located in Hays and Travis Counties.
(b) The Hill Country Regional Water Authority is not required to hold an election to confirm the creation of the authority.

SECTION 2. It is the intent and finding of the legislature that the residents and customers served by the West Travis County Public Utility Agency before the effective date of this Act will be provided by the creation of the Hill Country Regional Water Authority under this Act with the means to obtain services authorized by Sections 8601.101 and 8601.102, Special District Local Laws Code, as added by this Act, in the most effective and efficient manner without the impairment of any existing contracts or obligations of the West Travis County Public Utility Agency.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. It is the intent and finding of the legislature that:
(1) the residents and customers served by the West Travis County Public Utility Agency before the effective date of this Act will be provided by the creation of the Hill Country Regional Water Authority under this Act with the means to obtain services authorized by Sections 8601.101 and 8601.102, Special District Local Laws Code, as added by this Act, in the most effective and efficient manner without the impairment of any existing contracts or obligations of the West Travis County Public Utility Agency; and
(2) the creation of the Hill Country Regional Water Authority under this Act

will further important public policy objectives by: (A) supporting public ownership of important water and wastewater utility infrastructure in an environmentally sensitive area; and (B) protecting the interests of current ratepayers.

SECTION 3. The heading to Subtitle G, Title 6, Special District Local Laws Code, is amended.

SECTION 3. Same as introduced version.

SECTION 4. Subtitle G, Title 6, Special District Local Laws Code, is amended by adding Chapter 8601 to read as follows:
CHAPTER 8601. HILL COUNTRY REGIONAL WATER AUTHORITY
SUBCHAPTER A. GENERAL PROVISIONS

SECTION 4. Subtitle G, Title 6, Special District Local Laws Code, is amended by adding Chapter 8601 to read as follows:
CHAPTER 8601. HILL COUNTRY REGIONAL WATER AUTHORITY
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8601.001. DEFINITIONS.

Sec. 8601.001. DEFINITIONS.

Sec. 8601.002. NATURE OF AUTHORITY.

Sec. 8601.002. NATURE OF AUTHORITY.

Sec. 8601.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

Sec. 8601.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

Sec. 8601.004. AUTHORITY BOUNDARIES.

Sec. 8601.004. AUTHORITY BOUNDARIES.

Sec. 8601.005. APPLICABILITY OF OTHER LAW.

Sec. 8601.005. APPLICABILITY OF OTHER LAW.

SUBCHAPTER B. BOARD OF DIRECTORS

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Sec. 8601.051. DIRECTORS; TERMS.

Sec. 8601.051. DIRECTORS; TERMS.

Sec. 8601.0515. INITIAL BOARD.

Sec. 8601.0515. INITIAL BOARD.

Sec. 8601.052. ELIGIBILITY TO SERVE AS A DIRECTOR.

Sec. 8601.052. ELIGIBILITY TO SERVE AS A DIRECTOR.

Sec. 8601.053. METHOD OF APPOINTING DIRECTORS.

Sec. 8601.053. METHOD OF APPOINTING DIRECTORS.

Sec. 8601.054. VACANCY.

Sec. 8601.054. VACANCY.

Sec. 8601.055. SERVICE ON BOARD BY EMPLOYEE OR OFFICER OF OTHER PUBLIC ENTITY.

Sec. 8601.055. SERVICE ON BOARD BY EMPLOYEE OR OFFICER OF OTHER PUBLIC ENTITY.

Sec. 8601.056. COMPENSATION; EXPENSES.

Sec. 8601.057. QUORUM.

Sec. 8601.058. OFFICERS.

Sec. 8601.059. REMOVAL FROM OFFICE.

Sec. 8601.060. EX OFFICIO BOARD MEMBERS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8601.101. GENERAL POWERS AND DUTIES.

Sec. 8601.102. WATER AND WASTE POWERS.

Sec. 8601.103. AUTHORITY POLICIES, RULES, AND BYLAWS.

Sec. 8601.104. EXPANSION OF SERVICES.

(a) In this section, "West Travis County Water and Wastewater Systems" means those water and wastewater systems that were owned and operated before the effective date of the Act enacting this chapter by the West Travis County Public Utility Agency pursuant to agreement with the member entities.

No equivalent provision.

(b) Except as provided by Subsection (c), the authority may extend service to new customers located inside or outside the authority's boundaries.

(c) The authority may not extend wastewater service to new customers in Hays County that are located inside the extraterritorial jurisdiction or municipal limits of a municipality unless the authority sends the municipality written notice of its intent to provide the service and the municipality does not object in writing to the extension of service on or before the 60th day after the date of receiving notice.

Sec. 8601.056. COMPENSATION; EXPENSES.

Sec. 8601.057. QUORUM.

Sec. 8601.058. OFFICERS.

Sec. 8601.059. REMOVAL FROM OFFICE.

Sec. 8601.060. EX OFFICIO BOARD MEMBERS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8601.101. GENERAL POWERS AND DUTIES.

Sec. 8601.102. WATER AND WASTE POWERS.

Sec. 8601.103. AUTHORITY POLICIES, RULES, AND BYLAWS.

Sec. 8601.104. EXTENSION OF SERVICES.

No equivalent provision.

(a) In this section, "commission" means the Texas Commission on Environmental Quality.

(b) Except as provided by this section, the authority may extend service to new customers located inside or outside the authority's boundaries.

(c) The authority may not extend wastewater service to new customers in Hays County that are located inside the extraterritorial jurisdiction or municipal limits of a municipality or to new customers located inside the extraterritorial jurisdiction or municipal limits of the City of Austin unless the authority sends the applicable municipality written notice of its intent to provide the service and the municipality

does not object in writing to the extension of service on or before the 60th day after the date of receiving notice.

(d) Authority policies, rules, and bylaws must include reasonable provisions for funding authority expenses for expansion of the West Travis County Water and Wastewater Systems to serve new development.

No equivalent provision.

No equivalent provision.

(d) In accordance with the provisions of Section 8601.003(c) related to the protection, preservation, and restoration of the purity and sanitary condition of water in this state, except as provided by this subsection, the authority may not extend service to new customers in an area served by the authority that is located in the contributing and recharge zone of the Barton Springs Segment of the Edwards Aquifer. Before the authority approves an extension of authority service under this subsection, the applicant requesting the service must certify to the authority that:

(1) the applicant has submitted any required applications, notifications, or plans to the commission; and

(2) a draft permit has been issued by the executive director of the commission or by any other governmental entity with the requisite jurisdiction for the purpose of managing stormwater and all domestic, industrial, or communal wastes in a manner sufficient to maintain and support the Texas Surface Water Quality Standards, 30 T.A.C. Chapter 307, including the anti-degradation policy adopted under those standards.

No equivalent provision.

(e) The authority shall hold a public hearing and provide an opportunity for public comment before extending authority service to new customers not located in the service area identified in the 10-year capital improvement plan that:

(1) has been adopted from time to time in compliance with Chapter 395, Local Government Code; and

(2) is in effect when an application for service is received.

Sec. 8601.105. ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF SYSTEMS.

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Sec. 8601.106. WATER

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CONSERVATION OR DROUGHT
CONTINGENCY PLANS.

Sec. 8601.107. CONTRACTS AND
INSTRUMENTS.

Sec. 8601.108. MEMBER ENTITY
CONVEYANCES AND ACQUISITIONS.

SUBCHAPTER D. GENERAL
FINANCIAL PROVISIONS

Sec. 8601.151. FEES, RATES, AND
OTHER CHARGES. The board shall
establish, charge, and collect tolls, fees, user
fees, rates, and other charges for the sale or
use of water, water connections, wastewater
service, wastewater connections, or other
services sold, furnished, or supplied by the
authority.

The tolls, fees, user fees, rates, and other
charges must be reasonable and
nondiscriminatory and sufficient to produce
revenue adequate to:

- (1) pay all expenses necessary to the
operation and maintenance of the properties
and facilities of the authority;
- (2) pay the interest on and principal of all
bonds, notes, or other obligations assumed,
issued, or incurred by the authority;
- (3) pay the principal of and interest on and
any other amounts owed under any legal
debt created or assumed by the authority;
- (4) pay all sinking fund and reserve fund
payments agreed to be made with respect to
bonds, notes, or other obligations and
payable out of those revenues, as the
payments become due and payable; and
- (5) fulfill the terms of any agreements made
with the bondholders, other counterparties
or creditors, or with any person on their
behalf.

Sec. 8601.152. IMPACT FEES. The
authority may assess impact fees under
Chapter 395, Local Government Code.

Sec. 8601.153. LATE OR PARTIAL
PAYMENTS: INTEREST AND
PENALTIES.

Sec. 8601.154. ADMINISTRATIVE
PENALTY.

CONSERVATION OR DROUGHT
CONTINGENCY PLANS.

Sec. 8601.107. CONTRACTS AND
INSTRUMENTS.

Sec. 8601.108. MEMBER ENTITY
CONVEYANCES AND ACQUISITIONS.

SUBCHAPTER D. GENERAL
FINANCIAL PROVISIONS

Sec. 8601.151. FEES, RATES, AND
OTHER CHARGES. The board shall
establish, charge, and collect tolls, fees, user
fees, rates, and other charges for the sale or
use of water, water connections, wastewater
service, wastewater connections, or other
services sold, furnished, or supplied by the
authority inside and outside the authority's
boundaries.

The tolls, fees, user fees, rates,
and other charges must be reasonable and
nondiscriminatory and sufficient to produce
revenue adequate to:

- (1) pay all expenses necessary to the
operation and maintenance of the properties
and facilities of the authority;
- (2) pay the interest on and principal of all
bonds, notes, or other obligations assumed,
issued, or incurred by the authority;
- (3) pay the principal of and interest on and
any other amounts owed under any legal
debt created or assumed by the authority;
- (4) pay all sinking fund and reserve fund
payments agreed to be made with respect to
bonds, notes, or other obligations and
payable out of those revenues, as the
payments become due and payable; and
- (5) fulfill the terms of any agreements made
with the bondholders, other counterparties
or creditors, or with any person on their
behalf.

Sec. 8601.152. IMPACT FEES. The
authority may assess and collect impact fees
under Chapter 395, Local Government
Code, inside and outside the authority's
boundaries.

Sec. 8601.153. LATE OR PARTIAL
PAYMENTS: INTEREST AND
PENALTIES.

Sec. 8601.154. ADMINISTRATIVE
PENALTY.

Sec. 8601.155. DISBURSEMENTS.

Sec. 8601.155. DISBURSEMENTS.

Sec. 8601.156. NO AD VALOREM TAXATION OR SPECIAL ASSESSMENTS.

Sec. 8601.156. NO AD VALOREM TAXATION OR SPECIAL ASSESSMENTS.

Sec. 8601.157. FISCAL YEAR.

Sec. 8601.157. FISCAL YEAR.

Sec. 8601.158. FRANCHISE FEES.

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SUBCHAPTER E. BONDS AND NOTES

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Sec. 8601.201. REVENUE BONDS AND NOTES.

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Sec. 8601.202. ELECTION NOT REQUIRED.

Sec. 8601.202. ELECTION NOT REQUIRED.

Sec. 8601.203. USE OF REVENUE AND GROWTH PROJECTIONS.

Sec. 8601.203. USE OF REVENUE AND GROWTH PROJECTIONS.

SECTION 5. On the effective date of this Act:

SECTION 5. Same as introduced version.

- (1) the Hill Country Regional Water Authority shall assume all assets, liabilities, and obligations of the West Travis County Public Utility Agency;
- (2) all contracts and written agreements of the West Travis County Public Utility Agency are assigned to and assumed by the Hill Country Regional Water Authority; and
- (3) the Utilities Installment Purchase Agreement entered January 17, 2012, between the Lower Colorado River Authority and the West Travis County Public Utility Agency, as amended, is assigned to and assumed by the Hill Country Regional Water Authority created by Section 4 of this Act and is valid and enforceable by its terms. Governmental immunity from liability or suit is waived for the parties to enforce that Utilities Installment Purchase Agreement to the extent provided by Subchapter I, Chapter 271, Local Government Code.

SECTION 6. (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

SECTION 6. Same as introduced version.

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.

SECTION 7. (a) Any eminent domain powers granted by general law that apply to the Hill Country Regional Water Authority, as created by this Act, take 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 8601, Special District Local Laws Code, as added by this Act, is amended by adding Section 8601.109 to read as follows:

Sec. 8601.109. 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.

SECTION 8. This Act takes effect immediately if it 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 Act takes effect September 1, 2013.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.