

BILL ANALYSIS

Senate Research Center

S.B. 902
By: Fraser
Natural Resources
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are approximately 1,300 active water districts within the State of Texas. These districts include municipal utility districts, fresh water supply districts, and water control and improvement districts. In general, these districts have the authority to issue bonds and levy taxes in order to supply treated and untreated water, treat wastewater, implement drainage and flood control projects, develop and maintain parks and recreational facilities, and sometimes, in certain cases, build roads. Water districts are also political subdivisions of the State of Texas. As such, most water districts are governed by elected boards that have the authority to adopt and enforce a variety of rules and regulations.

Many laws governing water districts are 10 years old and out of date with modern technology and practices elsewhere in government. S.B. 902 is an omnibus bill which contains numerous updates and conforming changes for municipal water districts and special utility districts.

S.B. 902 amends current law relating to the operation, powers, and duties of certain water districts.

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

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality SECTION 22 (Section 49.4641, Water Code) and in SECTION 34 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 388.005, Health and Safety Code, by adding Subsections (g) and (h), as follows:

(g) Provides that, except as provided by Subsection (h), this section does not apply to the electricity consumption of a district as defined by Section 36.001 (Definitions) or 49.001 (Definitions), Water Code, that relates to the operation and maintenance of facilities or improvements for wastewater collection and treatment, water supply and distribution, or storm water diversion, detention, or pumping.

(h) Requires a political subdivision that is a district as defined by Section 36.001 or 49.001, Water Code, to evaluate, at least once every five years, the consumption of electricity, establish goals to reduce the consumption of electricity, and identify and implement cost-effective energy efficiency measures to reduce the consumption of electricity for district facilities described by Subdivision (g).

SECTION 2. Amends Section 375.161, Local Government Code, as follows:

Sec. 375.161. CERTAIN RESIDENTIAL PROPERTY EXEMPT. (a) Creates this subsection from existing text. Provides for an exception as provided by Subsection (b), to the prohibition on the governing body of a district (board) imposing 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, or fourplexes. Makes nonsubstantive changes.

(b) Provides that this section does not apply to a tax authorized or approved by the voters of the district or a required payment for a service provided by the district, including water and sewer services.

SECTION 3. Amends Section 552.014, Local Government Code, as follows:

Sec. 552.014. **CONTRACTS WITH WATER DISTRICTS OR NONPROFIT CORPORATIONS.** (a) Defines "project" in this section. Makes nonsubstantive changes.

(b) Authorizes a municipality to enter into a contract with a water district or with a corporation organized to be operated without profit under which the water district or corporation will acquire for the benefit of and convey to the municipality, either separately or together, one or more projects, rather than 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.

(c) Makes conforming changes. Authorizes the contract to 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 of the municipality, including revenues from municipal sales and use taxes, rather than revenues of the 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, rather than revenues from the system, and taxes.

(d)-(e) Makes conforming changes.

(f) Makes no changes to this subsection.

(g) Provides that 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.

SECTION 4. Amends Section 49.059, Water Code, as follows:

Sec. 49.059. New heading: **TAX ASSESSOR AND COLLECTOR.** (a) Authorizes a district created under authority of either Sections 52(b)(1) (relating authorizing certain entities to issue bonds or lend its credit for the improvement of certain water resources) and (2) (relating to authorizing certain entities to issue bonds or lend its credit for the improvement of certain water resources), Article III, or Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution, to employ or contract 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) Provides that a tax assessor and collector employed or contracted for under this section is not required to be a natural person.

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

(d) Creates this subsection from existing text. Prohibits a person from serving as tax assessor and collector of a district providing potable water or sewer utility services to household users if that person 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 governing body of a district (board), or the manager, engineer, or attorney for the district.

(e) Redesignates existing Subsection (b) as Subsection (e). Makes a conforming change.

(f) Redesignates existing Subsection (c) as Subsection (f). Makes a conforming change.

(g) Redesignates existing Subsection (d) as Subsection (g), and makes no further changes.

SECTION 5. Amends Section 49.063, Water Code, as follows:

Sec. 49.063. NOTICE OF MEETINGS. (a) Creates this subsection from existing text and makes no further changes.

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

(1) failure to provide notice of the meeting if the meeting is a regular meeting;

(2) an insubstantial defect in notice of the 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 the meeting is furnished to the county clerk in sufficient time for posting under Section 551.043(a) (relating to requiring that a notice of a meeting be posted by a certain time and the manner in which it is to be posted) or 551.045 (Exception to General Rule: Notice of Emergency Meeting or Emergency Addition to Agenda), Government Code.

Deletes existing text providing that neither failure to provide notice of a regular meeting nor an insubstantial defect in notice of any meeting shall affect the validity of any action taken at the meeting.

SECTION 6. Amends Sections 49.102(a), (b), (c), and (h), Water Code, as follows:

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

(b) Requires the notice of a confirmation or director election to state certain information and, if applicable, state the number of directors to be voted on.

(c) Requires the ballot, if the district has received an application, to have blank places after the names of the temporary directors in which a voter is authorized to write the names of any candidates appearing on the list of write-in candidates required by Section 146.031 (List of Write-In Candidates), Election Code.

(h) Requires the elected directors to 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 next directors election, unless otherwise agreed.

SECTION 7. Amends Sections 49.103(a) and (b), Water Code, as follows:

(a) Requires the members of the board of a district to serve staggered four-year terms, rather than serve for four-year terms, except as provided by Section 49.102 (Confirmation and Director Election).

(b) Requires that an election be held on the uniform election date, provided by Section 41.001, Election Code, in May of each even-numbered year to elect the appropriate number of directors after confirmation of a district. Makes nonsubstantive changes.

SECTION 8. Amends Subchapter D, Chapter 49, Water Code, by adding Section 49.1045, as follows:

Sec. 49.1045. CERTIFICATION OF ELECTION RESULTS IN LESS POPULOUS DISTRICTS. (a) Provides that this section applies only to a district that has 10 or fewer registered voters, and holds an election jointly with a county in which the district is wholly or partly located.

(b) Authorizes a district to 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 who voted in the joint election.

(c) Requires the board, to certify the district votes, to by rule adopt a procedure to determine for each person who signed the signature roster as a voter in the joint election whether the person's address on the day of the election was in the district and how the person voted in the district election.

(d) Provides that the certified votes are the official election results.

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

SECTION 9. Amends Sections 49.105(c) and (d), Water Code, as follows:

(c) Authorizes, rather than requires, the vacancy or vacancies to be filled by appointment by the Texas Natural Resource Conservation Commission (TNRCC) if the district is required by Section 49.181(Authority of Commission Over Issuance of District Bonds) to obtain TNRCC 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) (relating to authorizing a petition signed by more than 10 percent of the registered voters of the district to be presented to the board to fill a vacancy by appointment under certain circumstances), 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.

(d) Requires the current members of the board or temporary board holding the positions not filled at such election to be deemed to have been elected, rather than reelected, and to 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, 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.

SECTION 10. Amends Section 49.108, Water Code, by adding Subsections (g), (h), and (i), as follows:

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

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

(i) Provides that 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

(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 11. Amends Subchapter D, Chapter 49, Water Code, by adding Sections 49.109, 49.110, 49.111, 49.112, and 49.113, as follows:

Sec. 49.109. AGENT DURING ELECTION PERIOD. Authorizes the board to appoint a person, including a district officer, employee, or consultant, to serve as the district's agent under Section 31.123 (Appointment of Agent During Election Period), Election Code.

Sec. 49.110. ELECTION JUDGE. (a) Provides that 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) Requires a person to be a registered voter of the county in which the district is wholly or partly located to serve as an election judge in an election held by a district. Provides that this section controls, to the extent of any conflict with Section 32.051 (General Eligibility Requirements), Election Code.

Sec. 49.111. EXEMPTIONS FROM USE OF ACCESSIBLE VOTING SYSTEMS. (a) Provides that a district, notwithstanding Sections 61.012 (Access By Persons With Disabilities) and 61.013 (Access By Persons With Disabilities: Elections of Certain Political Subdivisions), Election Code, 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) (relating to providing that an election not be held if an unopposed candidate is declared as elected to office), Election Code; or

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

(b) Requires a district eligible for the exemption under Subsection (a) to 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. Requires the notice to be published or mailed not later than the later of the 75th day before the date of the election or the date on which the district adopts the order calling the election.

(c) Requires that the notice required by Subsection (b) provide that any voter in the district is authorized to request the use of a voting station that meets the accessibility requirements for voting by a person with a disability and provide information on how to submit such a request.

(d) Requires the district to 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. Authorizes the board, by order or resolution, to cancel an election called at the discretion of the district or to remove from the ballot a measure included at the discretion of the district before the first day of early voting by personal appearance. Requires that a copy of the order or resolution 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. Requires that a notice required by Section 141.040 (Notice of Deadlines), Election Code, be posted at the district's administrative office in the district or at the public place established by the district under Section 49.063 (Notice of Meetings) 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 12. Amends Section 49.151(c), Water Code, to authorize the board to allow disbursements of district money to be transferred by federal reserve wire system or by electronic means. Makes a conforming change.

SECTION 13. Amends Sections 49.154(a) and (c), Water Code, as follows:

(a) Authorizes the board to 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 to issue tax anticipation notes or bond anticipation notes, rather than 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. Provides that 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.

(c) Authorizes bond anticipation notes to be issued for any purpose for which bonds of the district are authorized to be issued or for the purpose of refunding previously issued bond anticipation notes. Deletes existing text authorizing the issuance of bond anticipation notes for any purpose for which bonds of the district have previously been voted or are authorized to be issued for that purpose.

SECTION 14. Amends Section 49.181(a), Water Code, to prohibit a district from issuing bonds to finance a project for which TNRCC has adopted rules requiring review and approval unless TNRCC determines that the project is feasible and issues an order approving the issuance of the bonds.

SECTION 15. Amends Section 49.194, Water Code, by amending Subsections (a), (b), and (c) and adding Subsection (h), as follows:

(a) Requires the board, after it has approved an audit report, to submit a copy of the report to the executive director of TNRCC (executive director) for filing within 135 days after the close of the district's fiscal year, except as provided by Subsection (f).

(b) Requires the board, if it refuses to approve the annual audit reports, to submit a copy of the annual audit 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 the board's failure to approve the report, except as provided by Subsection (f).

(c) Requires that copies of the audit report, rather than the audit, the annual financial dormancy affidavit, or annual financial report described in Sections 49.197 (Financially Dormant Districts) and 49.198 (Audit Report Exemption) be filed annually in the office of the district.

(h) Requires a special water authority to 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 16. Amends Section 49.212, Water Code, by amending Subsection (d) and adding Subsections (d-1) and (d-2), as follows:

(d) Provides that a charge or fee is not an impact fee under Chapter 395 (Financing Capital Improvements Required by New Developments in Municipalities, Counties, and Certain Other Local Governments), Local Government Code, if:

(1) the charge or fee is imposed by a district for capacity in storm water detention or retention facilities and related storm water conveyances, in addition to construction, installation, or inspection of a tap or connection to district water, sanitary sewer, or drainage facilities, including all necessary service lines and

meters, or for wholesale facilities that serve such water, sanitary sewer, drainage, or storm water detention or retention facilities; and

(2) the charge or fee:

(A) does not exceed three times the actual costs to the district for such tap or connection;

(B) 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 made by a district for retail or wholesale service on land that at the time of platting was not being provided with drainage, or storm water detention or retention service, in addition to water and wastewater service by the district.

Makes conforming and nonsubstantive changes.

(d-1) Authorizes actual costs under Subsections (d)(1) and (d)(2), as determined by the board in its reasonable discretion, to 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) Authorizes a district to 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 charge or fee is, rather than was, imposed under Subsection (d), rather than this subsection, and requires money received from the fees to be considered revenues of the district's utility system for purposes of the district's bond covenants.

SECTION 17. Amends Section 49.2121(b), Water Code, to authorize a district to take certain actions, including to collect a fee, rather than to 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.

SECTION 18. Amends Section 49.216, Water Code, by amending Subsection (e) and adding Subsection (f), as follows:

(e) Requires any peace officer who is directly employed by a district to 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 before beginning to perform any duties and at the time of appointment.

(f) Provides that 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.

SECTION 19. Amends Sections 49.273(d) and (e), Water Code, as follows:

(d) Requires a board to advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids for contracts over \$75,000, rather than over \$50,000. Requires that the notice be published in one or more newspapers circulated in each county, in which the district is located, rather than in which part of the district is located. Deletes existing text providing that if one newspaper meets both of these requirements, publication in such newspaper is sufficient. Authorizes notice to be published in any newspaper with general circulation in the district if there are more than

four counties in the district. Requires that the notice be published once a week for two consecutive weeks before the date that the bids are opened, and the first publication must be not later than the 14th day, rather than the 21st day, before the date of the opening of the sealed bids. Makes nonsubstantive changes.

(e) Requires the board to solicit written competitive bids on uniform written specifications from at least three bidders, for contracts over \$25,000 but not more than \$75,000, rather than not more than \$50,000.

SECTION 20. Amends Section 49.351, Water Code, by amending Subsections (a), (b), (c), (f), (i), and (l) and adding Subsection (m), as follows:

(a) Authorizes a district providing potable water or sewer service to household users to, 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 to provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply. Deletes existing text authorizing a district providing potable water or sewer service to household users to establish, operate, and maintain a fire department to perform all fire-fighting services within the district as provided in this subchapter and to 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 provision of an adequate water supply.

(b) Requires the district or districts to provide an adequate system and water supply for fire-fighting purposes, and authorizes the district or district to purchase necessary land, to construct and purchase necessary buildings, facilities, and equipment, and to employ or contract with a fire department to employ all necessary personnel including supervisory personnel to operate the fire department, after complying with the requirements of this section, rather than after 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).

(c) Provides that for financing a plan approved in accordance with this section, bonds and ad valorem taxes are required to be authorized and may be issued or imposed 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, for financing a plan approved in accordance with this section, rather than providing that bonds for financing a plan approved in accordance with this section are required to be authorized and may be issued, and a district shall be authorized to levy a tax to pay the principal of and interest on such bonds.

(f) Requires a district to comply with Subsections (g) (relating to requiring that a district or districts proposing to act jointly develop a plan for the establishment, operation, and maintenance of a fire department), (h) (relating to requiring that the plan and financial presentation be submitted to the executive director for consideration by TNRCC), and (i), before the district imposes an ad valorem tax or issues bonds payable wholly or partly from ad valorem taxes to finance the establishment of a fire department, contracts to operate a joint fire department, or contracts with another person to perform fire-fighting services within the district.

(i) Requires the district to hold an election to approve the plan, approve bonds payable wholly or partly from ad valorem taxes, and impose ad valorem taxes for financing the plan, after approval of a plan by TNRCC. Authorizes the election to be held in conjunction with an election required by Section 49.102 (Confirmation and Director Election). Deletes existing text requiring the district to, after the approval of a plan by the TNRCC, submit to the electors of the district at the election to approve bonds or to impose a mandatory fee for financing the plan, 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. Deletes existing text requiring the ballots at the election to be printed, as applicable, to provide for voting for or against the proposition. Deletes existing text setting forth the language to be used on the ballot.

(l) Authorizes a district providing potable water or sewer service to household users to, as a part of its billing process, collect from its customers a voluntary contribution on behalf of organizations providing fire-fighting services to the district. Deletes existing text authorizing the district to collect the voluntary contribution, notwithstanding the regardless of the requirements of Subsections (a), (b), (c), (d) (relating to authorizing two or more districts to contract to operate a joint fire department), (e) (relating to authorizing the district to contract with any other person to perform fire-fighting services), (f), (g), (h), (i), and (j) (relating to authorizing the district to discontinue any and all services to any person who fails to pay fire department service fees).

(m) Requires the district to apply the voluntary contribution first to the bill for water or sewer service, including any interest or penalties imposed, 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). Requires the district to use any amount remaining for fire-fighting services.

SECTION 21. Amends Section 49.462(1), Water Code, to redefine "recreational facilities."

SECTION 22. Amends Subchapter N, Chapter 49, Water Code, by adding Section 49.4641, as follows:

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

(b) Provides that 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) Authorizes the engineer to 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 future growth and demand for district facilities or changes in regulatory requirements.

SECTION 23. Amends Sections 49.4645(a) and (b), Water Code, as follows:

(a) Authorizes 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 to 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 voters, rather than the qualified voters, of the district voting in an election held for that purpose. Prohibits the outstanding principal amount of bonds, notes, and other obligations issued to finance parks and recreational facilities supported by ad valorem taxes, rather than payable from any source, from exceeding 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 (Contract Elections), from exceeding an amount equal to one percent 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. Authorizes the district to use an estimate of the value provided by the central appraisal district to establish the value of the taxable property in a district under this section.

(b) Requires the board to 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, on or before the 10th day before the first day for early voting by personal appearance at an election held, rather than 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. Authorizes that the park plan to 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. Provides that the park plan is not part of the proposition to be voted on and does not create a contract with the voters. Prohibits the estimated cost stated in the amended park plan from exceeding the amount of bonds authorized at that election. Makes nonsubstantive changes.

SECTION 24. Amends Section 51.072, Water Code, as follows:

Sec. 51.072. QUALIFICATIONS FOR DIRECTOR. (a) Creates this subsection from existing text. Requires a person, to be qualified for election as a member of the board of directors of a district, to be a qualified voter in the district, in addition to certain other requirements.

(b) Creates this subsection from existing text, and makes no further changes.

SECTION 25. Amends Section 51.335, Water Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Prohibits the district from usurping functions or duplicating a service already adequately exercised or rendered by the other governmental agency except under a valid contract with the other governmental agency or as provided by Subsection (c)

(c) Authorizes the district to finance, develop, and maintain recreational facilities under Subchapter N (Recreational Facilities), 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 26. Amends Section 51.523, Water Code, to set forth the required language to be used on a ballot for an election under this subchapter.

SECTION 27. Amends Section 51.527, Water Code, by adding Subsection (c), as follows:

(c) Authorizes the board of directors of a district (board) to declare the defined area dissolved or to repeal the designation of the designated property after the bonds issued for the defined area or designated property are fully paid or defeased. Requires the board to cease imposing any special taxes authorized under the adopted tax plan on the property located in the defined area or on the designated property after that declaration or repeal.

SECTION 28. Amends Section 54.016(f), Water Code, as follows:

(f) Authorizes a city to provide in its written consent for the inclusion of land in a municipal utility district operating under this chapter (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. Sets forth the required provisions of the allocation agreement.

SECTION 29. Amends Section 54.236, Water Code, as follows:

Sec. 54.236. STREET OR SECURITY LIGHTING. (a) Creates this subsection from existing text. Authorizes a municipal utility district operating under this chapter, subject to the provisions of this section, to purchase, install, operate, and maintain street lighting or security lighting within public utility easements or public rights-of-way or property owned by, rather than public-right-of-way within the boundaries of, the district.

(b) Creates this subsection from existing text. Creates an exception under Section 54.234 (Acquiring Road Powers) or Subchapter N (Recreational Facilities), Chapter 49, to the prohibition against a municipal utility district operating under this chapter issuing bonds supported by ad valorem taxes to pay for the purchase, installation, and maintenance of street or security lighting.

SECTION 30. Amends Section 54.739, Water Code, as follows:

Sec. 54.739. SUBSTITUTING LAND OF EQUAL VALUE. Authorizes land within the boundaries of a municipal utility district operating under this chapter subject to taxation that does not need or utilize the services of the district to be excluded and other land not within the boundaries of the district to 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 (Requisites for Application for Exclusion) through 54.747 (Service to Included Land), 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, rather than after the district is organized and acquires facilities with which to function for the purposes for which it was organized, and votes, issues and sells bonds for such purposes.

SECTION 31. Amends Section 54.744, Water Code, as follows:

Sec. 54.744. IMPAIRMENT OF SECURITY. (a) Creates this subsection from existing text and makes conforming changes.

(b) Redesignates existing Subdivision (3) as Subsection (b). Requires that the lands proposed for inclusion be deemed to be sufficient to avoid an impairment of the security for payment of obligations of the municipal utility district operating under this chapter if 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, if the district has any outstanding bonds or contract obligations 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 of directors of the district (board) considers an application.

(c) Provides that 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 (Waiver of Special Appraisal), Tax Code.

SECTION 32. Repealer: Section 49.103(g) (relating to the authorization of a municipal utility district operating under this chapter to change the terms of office of directors under certain circumstances), Water Code.

SECTION 33. Provides that the legislature finds that an agreement entered into before September 1, 2013, by a municipality and a 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 34. Requires the Texas Commission on Environmental Quality to adopt any rules or amendments to existing rules necessary to implement Section 49.4641, Water Code, as added by this Act, not later than December 1, 2014.

SECTION 35. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2013.

- (b) Effective date of Sections 54.739 and 54.744, Water Code, as amended by this Act: upon passage or September 1, 2013.