

By: Callegari

H.B. No. 168

Substitute the following for H.B. No. 168:

By: King of Zavala

C.S.H.B. No. 168

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation, powers, and duties of certain water
3 districts; providing clarification of existing authority with
4 regard to the imposition or use of certain assessments, fees, or
5 taxes; providing authority to change a fee or repeal a tax.

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

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

9 (g) Except as provided by Subsection (h), this section does
10 not apply to the electricity consumption of a district as defined by
11 Section 36.001 or 49.001, Water Code, that relates to the operation
12 and maintenance of facilities or improvements for:

13 (1) wastewater collection and treatment;

14 (2) water supply and distribution; or

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

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

19 (1) evaluate the consumption of electricity;

20 (2) establish goals to reduce the consumption of
21 electricity; and

22 (3) identify and implement cost-effective energy
23 efficiency measures to reduce the consumption of electricity.

24 SECTION 2. Section 375.161, Local Government Code, is

1 amended to read as follows:

2 Sec. 375.161. CERTAIN RESIDENTIAL PROPERTY EXEMPT.

3 (a) Except as provided by Subsection (b), the~~[The]~~ board may not
4 impose an impact fee, assessment, tax, or other requirement for
5 payment, construction, alteration, or dedication under this
6 chapter on single-family detached residential property, duplexes,
7 triplexes, and fourplexes ~~[quadraplexes]~~.

8 (b) This section does not apply to a tax authorized or
9 approved by the voters of the district or a required payment for a
10 service provided by the district, including water and sewer
11 services.

12 SECTION 3. Section 552.014, Local Government Code, is
13 amended to read as follows:

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

16 (1) "Project" means a water supply or treatment
17 system, a water distribution system, a sanitary sewage collection
18 or treatment system, works or improvements necessary for drainage
19 of land, recreational facilities, roads and improvements in aid of
20 roads, or facilities to provide firefighting services.

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

24 (b) A municipality may enter into a contract with a water
25 district or with a corporation organized to be operated without
26 profit under which the district or corporation will acquire for the
27 benefit of and convey to the municipality, either separately or

1 together, one or more projects [~~a water supply or treatment system,~~
2 ~~a water distribution system, a sanitary sewage collection or~~
3 ~~treatment system, or works or improvements necessary for drainage~~
4 ~~of land in the municipality~~]. In connection with the acquisition,
5 the district or corporation shall improve, enlarge, or extend the
6 existing municipal facilities as provided by the contract.

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

21 (1) that any payments due under this section are
22 payable from and are secured by a pledge of a specified part of the
23 revenues of the municipality, including revenues from municipal
24 sales and use taxes [~~municipal water system, sewer system, or~~
25 ~~drainage system~~];

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

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

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

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

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

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

19 SECTION 4. Section 49.059, Water Code, is amended to read as
20 follows:

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

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

26 (2) a firm, organization, association, partnership,
27 corporation, or other legal entity if an individual certified as a

1 registered Texas assessor-collector owns an interest in or is
2 employed by the firm, organization, association, partnership,
3 corporation, or other legal entity.

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

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

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

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

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

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

26 (4) is directly or through a corporation developing
27 land in the district or is a director, engineer, or attorney for the

1 district.

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

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

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

12 SECTION 5. Section 49.063, Water Code, is amended to read as
13 follows:

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

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

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

27 (2) [~~nor~~] an insubstantial defect in notice of the

1 ~~[any] meeting; or~~

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

7 SECTION 6. Sections 49.102(a), (b), (c), and (h), Water
8 Code, are amended to read as follows:

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

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

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

1 candidates required by Section 146.031, Election Code [~~other~~
2 ~~persons for directors~~].

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

8 SECTION 7. Sections 49.103(a) and (b), Water Code, are
9 amended to read as follows:

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

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

16 SECTION 8. Subchapter D, Chapter 49, Water Code, is amended
17 by adding Section 49.1045 to read as follows:

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

21 (1) has 10 or fewer registered voters; and
22 (2) holds an election jointly with a county in which
23 the district is wholly or partly located.

24 (b) A district may provide for an inquiry into and
25 certification of the voting results of an election under this
26 section if:

27 (1) the election results indicate that the number of

1 votes cast in the election was greater than the number of registered
2 voters in the district;

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

5 (3) the board can determine from the official list of
6 registered voters prepared by the county voter registrar or county
7 elections administrator for the district election which voters were
8 qualified to vote in the district election and can determine from
9 the signature roster from the joint election who voted in the joint
10 election.

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

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

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

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

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

20 SECTION 9. Sections 49.105(c) and (d), Water Code, are
21 amended to read as follows:

22 (c) If the number of directors is reduced to fewer than a
23 majority or if a vacancy continues beyond the 90th day after the
24 date the vacancy occurs, the vacancy or vacancies may [~~shall~~] be
25 filled by appointment by the commission if the district is required
26 by Section 49.181 to obtain commission approval of its bonds or by
27 the county commissioners court if the district was created by the

1 county commissioners court, regardless of whether a petition has
2 been presented to the board under Subsection (b). An appointed
3 director shall serve for the unexpired term of the director he or
4 she is replacing.

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

13 SECTION 10. Section 49.108, Water Code, is amended by
14 adding Subsections (g), (h), and (i) to read as follows:

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

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

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

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

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

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

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

13 (A) on an emergency basis; or

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

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

22 SECTION 11. Subchapter D, Chapter 49, Water Code, is
23 amended by adding Sections 49.109, 49.110, 49.111, 49.112, and
24 49.113 to read as follows:

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

1 Election Code.

2 Sec. 49.110. ELECTION JUDGE. (a) The notice requirements
3 for the appointment of a presiding election judge under Section
4 32.009, Election Code, do not apply to an election held by a
5 district.

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

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

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

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

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

23 (b) A district eligible for the exemption under Subsection
24 (a) must publish notice in a newspaper of general circulation in an
25 area that includes the district or mail notice to each voter in the
26 district regarding the district's intention to hold an election
27 without providing a voting station that meets the requirements for

1 accessibility under 42 U.S.C. Section 15481(a)(3) on election day
2 and during the period for early voting by personal appearance. The
3 notice must be published or mailed not later than the later of:

4 (1) the 75th day before the date of the election; or
5 (2) the date on which the district adopts the order
6 calling the election.

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

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

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

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

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

25 Sec. 49.113. NOTICE FOR FILING FOR PLACE ON BALLOT. A
26 notice required by Section 141.040, Election Code, must be posted
27 at the district's administrative office in the district or at the

1 public place established by the district under Section 49.063 of
2 this chapter not later than the 30th day before the deadline for a
3 candidate to file an application for a place on the ballot of a
4 district directors' election.

5 SECTION 12. Section 49.151(c), Water Code, is amended to
6 read as follows:

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

12 SECTION 13. Sections 49.154(a) and (c), Water Code, are
13 amended to read as follows:

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

26 (c) Bond anticipation notes may be issued for any purpose
27 for which bonds of the district may be issued [~~have previously been~~

1 ~~voted~~] or [~~may be issued~~] for the purpose of refunding previously
2 issued bond anticipation notes. A district may covenant with the
3 purchasers of the bond anticipation notes that the district will
4 use the proceeds of sale of any bonds in the process of issuance for
5 the purpose of refunding the bond anticipation notes, in which case
6 the board will be required to use the proceeds received from sale of
7 the bonds in the process of issuance to pay principal, interest, or
8 redemption price on the bond anticipation notes.

9 SECTION 14. Section 49.181(a), Water Code, is amended to
10 read as follows:

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

16 (1) refunding bonds if the commission issued an order
17 approving the issuance of the bonds or notes that originally
18 financed the project;

19 (2) refunding bonds that are issued by a district
20 under an agreement between the district and a municipality allowing
21 the issuance of the district's bonds to refund bonds issued by the
22 municipality to pay the cost of financing facilities;

23 (3) bonds issued to and approved by the Farmers Home
24 Administration, the United States Department of Agriculture, the
25 North American Development Bank, or the Texas Water Development
26 Board;

27 (4) refunding bonds issued to refund bonds described

1 by Subdivision (3); or

2 (5) bonds issued by a public utility agency created
3 under Chapter 572, Local Government Code, any of the public
4 entities participating in which are districts if at least one of
5 those districts is a district described by Subsection (h)(1)(E).

6 SECTION 15. Section 49.194, Water Code, is amended by
7 amending Subsections (a), (b), and (c) and adding Subsection (h) to
8 read as follows:

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

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

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

23 (h) A special water authority shall submit a copy of the
24 audit report to the executive director for filing not later than the
25 160th day after the date the special water authority's fiscal year
26 ends.

27 SECTION 16. Section 49.212, Water Code, is amended by

1 amending Subsection (d) and adding Subsections (d-1) and (d-2) to
2 read as follows:

3 (d) Notwithstanding any provision of law to the contrary, a
4 district that charges a fee that is an impact fee as described in
5 Section 395.001(4), Local Government Code, must comply with Chapter
6 395, Local Government Code. A charge or fee is not an impact fee
7 under that chapter if:

8 (1) the charge or fee is imposed by a district for
9 construction, installation, or inspection of a tap or connection to
10 district water, sanitary sewer, or drainage facilities, including
11 all necessary service lines and meters, for capacity in storm water
12 detention or retention facilities and related storm water
13 conveyances, or for wholesale facilities that serve such water,
14 sanitary sewer, [~~or~~] drainage, or storm water detention or
15 retention facilities; and

16 (2) the charge or fee:

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

20 (B) [~~7 (ii)~~] if made to a nontaxable entity for
21 retail or wholesale service, does not exceed the actual costs to the
22 district for such work and for all facilities that are necessary to
23 provide district services to such entity and that are financed or
24 are to be financed in whole or in part by tax-supported or revenue
25 bonds of the district; [~~7~~] or

26 (C) is [~~(iii) if~~] made by a district for retail or
27 wholesale service on land that at the time of platting was not being

1 provided with water, ~~or~~ wastewater, drainage, or storm water
2 detention or retention service by the district~~[, shall not be~~
3 ~~deemed to be an impact fee under Chapter 395, Local Government~~
4 ~~Code]~~.

5 (d-1) Actual costs under Subsections (d)(1) and (d)(2), as
6 determined by the board in its reasonable discretion, may include
7 nonconstruction expenses attributable to the design, permitting,
8 financing, and construction of those facilities, and reasonable
9 interest on those costs calculated at a rate not to exceed the net
10 effective interest rate on any district bonds issued to finance the
11 facilities.

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

19 SECTION 17. Section 49.2121(b), Water Code, is amended to
20 read as follows:

21 (b) A district may:

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

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

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

5 SECTION 18. Section 49.216, Water Code, is amended by
6 amending Subsection (e) and adding Subsection (f) to read as
7 follows:

8 (e) Any peace officer who is directly employed by a
9 district, before beginning to perform any duties and at the time of
10 appointment, must take an oath and execute a bond conditioned on
11 faithful performance of such officer's duties in the amount of
12 \$1,000 payable to the district. The oath and the bond shall be
13 filed in the district office.

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

19 SECTION 19. Sections 49.273(d) and (e), Water Code, are
20 amended to read as follows:

21 (d) For contracts over \$75,000 [~~\$50,000~~], the board shall
22 advertise the letting of the contract, including the general
23 conditions, time, and place of opening of sealed bids. The notice
24 must [~~shall~~] be published in one or more newspapers circulated in
25 each county in which [~~part of~~] the district is located. [~~If one~~
26 ~~newspaper meets both of these requirements, publication in such~~
27 ~~newspaper is sufficient.~~] If there are more than four counties in

1 the district, notice may be published in any newspaper with general
2 circulation in the district. The notice must [~~shall~~] be published
3 once a week for two consecutive weeks before the date that the bids
4 are opened, and the first publication must [~~shall~~] be not later than
5 the 14th [~~21st~~] day before the date of the opening of the sealed
6 bids.

7 (e) For contracts over \$25,000 but not more than \$75,000
8 [~~\$50,000~~], the board shall solicit written competitive bids on
9 uniform written specifications from at least three bidders.

10 SECTION 20. Section 49.351, Water Code, is amended by
11 amending Subsections (a), (b), (c), (f), (i), and (l) and adding
12 Subsection (m) to read as follows:

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

24 (b) After complying with the requirements of this section
25 [~~approval of the district electors of a plan to operate, jointly~~
26 ~~operate, or jointly fund the operation of a fire department, and~~
27 ~~after complying with Subsections (g), (h), and (i)~~], the district

1 or districts shall provide an adequate system and water supply for
 2 fire-fighting purposes, may purchase necessary land, may construct
 3 and purchase necessary buildings, facilities, and equipment, and
 4 may employ or contract with a fire department to employ all
 5 necessary personnel including supervisory personnel to operate the
 6 fire department.

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

14 (f) Before a district imposes an ad valorem tax or issues
 15 bonds payable wholly or partly from ad valorem taxes to finance the
 16 establishment of ~~[establishes]~~ a fire department, contracts to
 17 operate a joint fire department, or contracts with another person
 18 to perform fire-fighting services within the district, the district
 19 must comply with ~~[the provisions of]~~ Subsections (g), (h), and (i).

20 (i) After approval of a plan by the commission, the district
 21 shall hold an ~~[submit to the electors of the district at the]~~
 22 election to approve the plan, approve bonds payable wholly or
 23 partly from ad valorem taxes, and ~~[or to]~~ impose ad valorem taxes ~~[a~~
 24 ~~mandatory fee]~~ for financing the plan. The election ~~[, or if no~~
 25 ~~bonds or fees are to be approved, at an election called for approval~~
 26 ~~of the plan, which]~~ may be held in conjunction with an election
 27 required by Section 49.102 ~~[, the proposition of whether or not the~~

1 ~~plan should be implemented or entered into by the district]. [The~~
2 ~~ballots at the election shall be printed, as applicable, to provide~~
3 ~~for voting for or against the proposition: "The implementation of~~
4 ~~the plan for (operation/joint operation) of a fire department"; or~~
5 ~~"The plan and contract to provide fire-fighting services for the~~
6 ~~district."]~~

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

16 (m) If a customer makes a partial payment of a district bill
17 for water or sewer service and includes with the payment a voluntary
18 contribution for fire-fighting services under Subsection (1), the
19 district shall apply the voluntary contribution first to the bill
20 for water or sewer service, including any interest or penalties
21 imposed. The district shall use any amount remaining for
22 fire-fighting services.

23 SECTION 21. Section 49.462(1), Water Code, is amended to
24 read as follows:

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

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

5 SECTION 22. Subchapter N, Chapter 49, Water Code, is
6 amended by adding Section 49.4641 to read as follows:

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

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

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

20 (1) the rules, regulations, and design guidelines or
21 criteria of a municipality, county, or other entity exercising
22 jurisdiction;

23 (2) sound engineering principles;

24 (3) the impact on adjoining property;

25 (4) the availability of sites that meet the
26 requirements for the proposed use;

27 (5) requirements for sanitary control;

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

3 (7) benefits to storm water quality; and

4 (8) anticipated expansions of facilities resulting
5 from:

6 (A) future growth and demand for district
7 facilities; or

8 (B) changes in regulatory requirements.

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

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

1 estimated cost provided in the park plan under Subsection (b),
2 whichever is smaller. To establish the value of the taxable
3 property in a district under this section, the district may use an
4 estimate of the value provided by the central appraisal district.

5 The district may not issue bonds supported by ad valorem taxes to
6 pay for the development and maintenance of:

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

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

24 SECTION 24. Section 51.072, Water Code, is amended to read
25 as follows:

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

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

5 (b) Section 49.052 does not apply to a district governed by

6 this chapter whose principal purpose is providing water for

7 irrigation.

8 SECTION 25. Section 51.335, Water Code, is amended by

9 amending Subsection (b) and adding Subsection (c) to read as

10 follows:

11 (b) The district shall not usurp functions or duplicate a

12 service already adequately exercised or rendered by the other

13 governmental agency except:

14 (1) under a valid contract with the other governmental

15 agency; or

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

17 (c) The district may finance, develop, and maintain

18 recreational facilities under Subchapter N, Chapter 49, even if

19 similar facilities may be provided by a political subdivision or

20 other governmental entity included wholly or partly in the

21 district.

22 SECTION 26. Section 51.523, Water Code, is amended to read

23 as follows:

24 Sec. 51.523. BALLOTS. The ballot for an election under this

25 subchapter shall be printed to provide for voting for or against

26 substantially the proposition: "Designation of the area, issuance

27 of bonds, [~~and~~] levy of a tax to retire the bonds, and levy of a

1 maintenance tax."

2 SECTION 27. Section 51.527, Water Code, is amended by
3 adding Subsection (c) to read as follows:

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

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

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

20 (1) a method by which the district shall continue to
21 exist following the annexation of all territory within the district
22 by the city, if the district is initially located outside the
23 corporate limits of the city;

24 (2) an allocation of the taxes or revenues of the
25 district or the city which will assure that, following the date of
26 the inclusion of all the district's territory within the corporate
27 limits of the city, the total annual ad valorem taxes collected by

1 the city and the district from taxable property within the district
2 does not exceed an amount greater than the city's ad valorem tax
3 upon such property;

4 (3) an allocation of governmental services to be
5 provided by the city or the district following the date of the
6 inclusion of all of the district's territory within the corporate
7 limits of the city; and

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

10 SECTION 29. Section 54.236, Water Code, is amended to read
11 as follows:

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

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

21 SECTION 30. Section 54.739, Water Code, is amended to read
22 as follows:

23 Sec. 54.739. SUBSTITUTING LAND OF EQUAL VALUE. After the
24 district is organized and has obtained voter approval for the
25 issuance of, or has sold, bonds payable wholly or partly from ad
26 valorem taxes [~~acquires facilities with which to function for the~~
27 ~~purposes for which it was organized, and votes, issues and sells~~

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

8 SECTION 31. Section 54.744, Water Code, is amended to read
9 as follows:

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

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

20 (2) either the estimated costs of providing district
21 facilities and services to such included lands is equal to or less
22 than the estimated costs of providing district facilities and
23 services to the excluded lands or any increased estimated costs of
24 providing district facilities and services to the included land, as
25 determined by the district's engineer, can be amortized at
26 prevailing bond interest rates and maturity schedules and the
27 prevailing debt service tax rate of the district, as determined by

1 the district's professional financial advisor, when applied to the
2 increase in taxable value of the included land over the taxable
3 value of the excluded land.

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

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

20 SECTION 32. Section 49.103(g), Water Code, is repealed.

21 SECTION 33. The legislature finds that an agreement entered
22 into before September 1, 2013, by a municipality and a municipal
23 utility district is an allocation agreement only if:

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

26 (2) the agreement strictly complies with the
27 requirements of Section 54.016(f), Water Code, as that section

1 existed immediately before the effective date of this Act; and

2 (3) the agreement is specifically designated by the
3 parties to the agreement as an "allocation agreement" under Section
4 54.016(f), Water Code.

5 SECTION 34. Not later than December 1, 2014, the Texas
6 Commission on Environmental Quality shall adopt any rules or
7 amendments to existing rules necessary to implement Section
8 49.4641, Water Code, as added by this Act.

9 SECTION 35. (a) Except as provided by Subsection (b) of
10 this section, this Act takes effect September 1, 2013.

11 (b) Sections 54.739 and 54.744, Water Code, as amended by
12 this Act, take effect immediately if this Act receives a vote of
13 two-thirds of all the members elected to each house, as provided by
14 Section 39, Article III, Texas Constitution; otherwise, those
15 sections take effect September 1, 2013.