

By: Workman

H.B. No. 890

Substitute the following for H.B. No. 890:

By: Thompson of Brazoria

C.S.H.B. No. 890

A BILL TO BE ENTITLED

AN ACT

relating to the conversion of the West Travis County Public Utility Agency to the Hill Country Regional Water Authority and to the creation of the Hill Country Regional Water Authority; providing authority to issue revenue bonds or notes; granting the power of eminent domain; providing an administrative penalty; providing authority to impose fees.

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

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:

(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 to read as follows:

SUBTITLE G. RIVER AUTHORITIES AND OTHER SPECIAL WATER AUTHORITIES

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. In this chapter:

(1) "Authority" means the Hill Country Regional Water Authority.

(2) "Board" means the board of directors of the authority.

(3) "Director" means a member of the board.

(4) "Member entity" means:

(A) Hays County;

(B) the City of Bee Cave; or

(C) West Travis County Municipal Utility

1 District No. 5.

2 Sec. 8601.002. NATURE OF AUTHORITY. The authority is a  
3 conservation and reclamation district in Hays and Travis Counties  
4 created under and essential to accomplish the purposes of Section  
5 59, Article XVI, Texas Constitution.

6 Sec. 8601.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)  
7 The authority is created to serve a public use and benefit.

8 (b) All land and other property included in the territory of  
9 the authority will benefit from the works and projects to be  
10 accomplished by the authority under powers conferred by Section 59,  
11 Article XVI, Texas Constitution, and powers granted under this  
12 chapter.

13 (c) The authority is created to accomplish the control,  
14 storage, conservation, preservation, distribution, and use of  
15 water for domestic, industrial, municipal, and all other useful  
16 purposes, including the protection, preservation, and restoration  
17 of the purity and sanitary condition of water within this state, as  
18 provided by Section 59, Article XVI, Texas Constitution.

19 Sec. 8601.004. AUTHORITY BOUNDARIES. The authority's  
20 boundaries are coextensive with the boundaries of the territory  
21 described by Certificate of Public Convenience and Necessity No.  
22 13207, as those boundaries exist on the effective date of the Act  
23 enacting this chapter and as they may be amended in accordance with  
24 applicable law.

25 Sec. 8601.005. APPLICABILITY OF OTHER LAW. (a) Except as  
26 otherwise provided by this chapter, Chapter 49, Water Code, applies  
27 to the authority. For the purposes of Chapter 49, Water Code, the

authority is a special water authority.

(b) The following subchapters of Chapter 49, Water Code, do not apply to the authority:

(1) Subchapter J;

(2) Subchapter L;

(3) Subchapter M; and

(4) Subchapter N.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8601.051. DIRECTORS; TERMS. (a) The authority is governed by a board of five appointed directors.

(b) Except for a director serving on the initial board, directors serve staggered four-year terms that expire September 30 of even-numbered years.

(c) A director may serve consecutive terms of office.

Sec. 8601.0515. INITIAL BOARD. (a) The initial board consists of:

Position 1--Larry Fox;

Position 2--Ray Whisenant;

Position 3--Michael Murphy;

Position 4--Scott Roberts; and

Position 5--Bill Goodwin.

(b) Directors Fox, Whisenant, and Murphy serve initial terms expiring September 30, 2016. Directors Roberts and Goodwin serve initial terms expiring September 30, 2014.

(c) A vacancy in a position on the initial board shall be filled in the manner provided by Section 8601.053 for making an appointment to the same position, except that an appointment to

fill a vacancy in position 4 or 5 does not require that both positions be seated simultaneously.

(d) This section expires September 30, 2016.

Sec. 8601.052. ELIGIBILITY TO SERVE AS A DIRECTOR. (a) To be eligible to serve as a director, an individual must be at least 18 years of age.

(b) To be eligible to serve as a director:

(1) in position 1, 2, or 3, an individual must reside in Hays or Travis County;

(2) in position 4, an individual must reside in Hays County; or

(3) in position 5, an individual must reside in Travis County.

Sec. 8601.053. METHOD OF APPOINTING DIRECTORS. (a) Directors are appointed or recommended for appointment to the five numbered positions on the board by the governing body of each member entity as follows:

(1) West Travis County Municipal Utility District No. 5 shall appoint the director who serves in position 1;

(2) Hays County shall appoint the director who serves in position 2;

(3) the City of Bee Cave shall appoint the director who serves in position 3;

(4) Hays County shall appoint the director who serves in position 4, subject to approval by the member entities as provided by Subsection (b); and

(5) the City of Bee Cave shall appoint the director who

1 serves in position 5, subject to approval by the member entities as  
2 provided by Subsection (b).

3 (b) The governing bodies of all member entities must approve  
4 the appointments of directors for positions 4 and 5 before the  
5 persons begin to serve as directors. Upon approval, directors  
6 appointed to serve in those positions shall be seated  
7 simultaneously.

8 (c) Except to fill a vacancy, the appointment of a director  
9 must be made during September of the year in which that position's  
10 term begins.

11 Sec. 8601.054. VACANCY. (a) A vacancy in a position on the  
12 board shall be filled in the same manner as an appointment to the  
13 board for that position, except that a vacancy in position 4 or 5  
14 does not require that positions 4 and 5 be seated simultaneously.

15 (b) A person appointed to fill a vacancy serves for the  
16 remainder of the vacated term.

17 (c) Section 49.105, Water Code, does not apply to the  
18 authority.

19 Sec. 8601.055. SERVICE ON BOARD BY EMPLOYEE OR OFFICER OF  
20 OTHER PUBLIC ENTITY. (a) The common law doctrine of  
21 incompatibility does not disqualify an employee or official of a  
22 public entity from serving as a director.

23 (b) An employee, officer, or member of the governing body of  
24 a public entity may serve as a director but may not have a personal  
25 interest in a contract executed by the authority other than as an  
26 employee, officer, or member of the governing body of the public  
27 entity. If a director has a personal interest in a contract

1 executed by the authority, the director must abstain from any  
2 participation in the matter. A director is not required to abstain  
3 from further participation in the matter if a majority of the  
4 members of the board of directors have similar interests in the same  
5 official action.

6 Sec. 8601.056. COMPENSATION; EXPENSES. (a) A director  
7 serves without compensation but, subject to board approval, may be  
8 reimbursed for travel or other expenses incurred on behalf of the  
9 authority if the director presents the board with a verified  
10 statement of the expenses.

11 (b) Section 49.060, Water Code, does not apply to the  
12 authority.

13 Sec. 8601.057. QUORUM. A majority of the membership of the  
14 board constitutes a quorum for any meeting, and a concurrence of a  
15 majority of the entire membership of the board is sufficient for  
16 transacting any business of the authority.

17 Sec. 8601.058. OFFICERS. (a) Every two years on the  
18 appointment or reappointment of directors, the board shall meet and  
19 elect a president, a vice president, a secretary, and any other  
20 officers or assistant officers the board considers necessary.

21 (b) The president is the chief executive officer of the  
22 authority, presides at all meetings of the board, and shall execute  
23 all documents on behalf of the authority unless the board  
24 authorizes the general manager or other representative of the  
25 authority to execute a document or documents on behalf of the  
26 authority.

27 (c) The vice president shall act as president in case of the

1 absence or disability of the president.

2 (d) The secretary is responsible for seeing that all records  
3 and books of the authority are properly kept and may attest the  
4 president's signature on documents.

5 (e) The board may appoint another director, the general  
6 manager, or any employee as assistant or deputy secretary to assist  
7 the secretary, and any such person shall be entitled to certify as  
8 to the authenticity of any record of the authority, including all  
9 proceedings relating to bonds, contracts, or indebtedness of the  
10 authority.

11 Sec. 8601.059. REMOVAL FROM OFFICE. A director may be  
12 removed from office at any time, with or without cause, by the  
13 member entity that appointed the director.

14 Sec. 8601.060. EX OFFICIO BOARD MEMBERS. (a) This section  
15 applies only to a person who is not an appointed director.

16 (b) Any of the following persons, or any of those persons'  
17 designees, is entitled to serve as an ex officio, nonvoting member  
18 of the board:

19 (1) the Hays County judge;  
20 (2) the City of Bee Cave city administrator; or  
21 (3) the president of the West Travis County Municipal  
22 Utility District No. 5 Board of Directors.

23 (c) A person designated as an ex officio member of the board  
24 is entitled to receive notice of and to attend the authority's board  
25 meetings.

26 (d) A person designated as an ex officio member of the board  
27 is not counted for purposes of determining a quorum under Section



8601.057.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8601.101. GENERAL POWERS AND DUTIES. (a) The authority has all the rights, powers, privileges, functions, and duties necessary and convenient to accomplish the purposes of this chapter.

(b) Except as provided by this chapter, the authority has the powers and duties provided by the general law of this state applicable to a special water authority under Chapter 49, Water Code.

(c) The authority retains all the rights, powers, privileges, functions, obligations, and duties of the West Travis County Public Utility Agency as in effect before the effective date of the Act enacting this chapter.

Sec. 8601.102. WATER AND WASTE POWERS. (a) The authority may supply water for municipal uses, domestic uses, power, and commercial purposes, and all other beneficial uses or controls.

(b) The authority may not use groundwater from the Barton Springs Segment of the Edwards Aquifer as a source of the authority's water supply. This section shall not be interpreted to prohibit an aquifer storage and recovery project or a recharge improvement project that enhances water supply in the Barton Springs Segment of the Edwards Aquifer.

(c) The authority may collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state.

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

1 authority may adopt and enforce policies, rules, and bylaws  
2 reasonably required to implement this chapter, including rules  
3 governing procedures before the board and rules regarding  
4 implementation, enforcement, and any other matters related to the  
5 exercise of the rights, powers, privileges, and functions conferred  
6 on the authority by this chapter for the provision of water and  
7 wastewater service.

8 Sec. 8601.104. EXTENSION OF SERVICES. (a) In this section,  
9 "commission" means the Texas Commission on Environmental Quality.

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

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

22 (d) In accordance with the provisions of Section  
23 8601.003(c) related to the protection, preservation, and  
24 restoration of the purity and sanitary condition of water in this  
25 state, except as provided by this subsection, the authority may not  
26 extend service to new customers in an area served by the authority  
27 that is located in the contributing and recharge zone of the Barton

1 Springs Segment of the Edwards Aquifer. Before the authority  
2 approves an extension of authority service under this subsection,  
3 the applicant requesting the service must certify to the authority  
4 that:

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

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

14 (e) The authority shall hold a public hearing and provide an  
15 opportunity for public comment before extending authority service  
16 to new customers not located in the service area identified in the  
17 10-year capital improvement plan that:

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

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

22 Sec. 8601.105. ACQUISITION, CONSTRUCTION, MAINTENANCE, AND  
23 OPERATION OF SYSTEMS. (a) The authority may purchase, construct,  
24 acquire, own, operate, maintain, repair, improve, or extend inside  
25 or outside its boundaries any works, improvements, facilities,  
26 plants, equipment, or appliances necessary to accomplish authority  
27 purposes under this chapter, including all works, improvements,

facilities, plants, equipment, and appliances incident, helpful, or necessary to provide services inside or outside the authority's boundaries.

(b) Any new construction or extension of authority facilities in the jurisdiction of a municipality must comply with the municipality's:

(1) ordinances governing subdivision platting and site development; and

(2) design criteria for fire flow.

Sec. 8601.106. WATER CONSERVATION OR DROUGHT CONTINGENCY PLANS. The authority by rule may develop, prepare, revise, adopt, implement, enforce, and manage comprehensive water conservation or drought contingency plans for the authority or any portion of the authority.

Sec. 8601.107. CONTRACTS AND INSTRUMENTS. The authority may, as necessary or convenient to the exercise of the rights, powers, privileges, and functions conferred on the authority by this chapter:

(1) enter into a contract, including an interlocal contract under Chapter 791, Government Code; or

(2) execute an instrument.

Sec. 8601.108. MEMBER ENTITY CONVEYANCES AND ACQUISITIONS. (a) In this section, "utility system" has the meaning assigned by Section 1502.001, Government Code.

(b) A member entity may convey a utility system facility or asset or its interest in a utility system facility or asset to the authority without holding an election to approve the conveyance.

1        (c) A member entity is exempt from the provisions of Chapter  
2 1502, Government Code, regarding the conveyance, sale, or  
3 acquisition of a utility system, or any related works,  
4 improvements, facilities, plants, equipment, or appliances.

5                SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

6        Sec. 8601.151. FEES, RATES, AND OTHER CHARGES. The board  
7 shall establish, charge, and collect tolls, fees, user fees, rates,  
8 and other charges for the sale or use of water, water connections,  
9 wastewater service, wastewater connections, or other services  
10 sold, furnished, or supplied by the authority inside and outside  
11 the authority's boundaries. The tolls, fees, user fees, rates, and  
12 other charges must be reasonable and nondiscriminatory and  
13 sufficient to produce revenue adequate to:

14                (1) pay all expenses necessary to the operation and  
15 maintenance of the properties and facilities of the authority;

16                (2) pay the interest on and principal of all bonds,  
17 notes, or other obligations assumed, issued, or incurred by the  
18 authority;

19                (3) pay the principal of and interest on and any other  
20 amounts owed under any legal debt created or assumed by the  
21 authority;

22                (4) pay all sinking fund and reserve fund payments  
23 agreed to be made with respect to bonds, notes, or other obligations  
24 and payable out of those revenues, as the payments become due and  
25 payable; and

26                (5) fulfill the terms of any agreements made with the  
27 bondholders, other counterparties or creditors, or with any person

1 on their behalf.

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

5 Sec. 8601.153. LATE OR PARTIAL PAYMENTS: INTEREST AND  
6 PENALTIES. (a) The board may require the payment of interest on  
7 any late or unpaid tolls, fees, user fees, impact fees, rates, or  
8 other charges due the authority. The interest rate may not exceed  
9 the interest rate permitted by Section 2251.025, Government Code.

10 (b) The board may impose penalties for the failure to make a  
11 complete or timely payment to the authority.

12 Sec. 8601.154. ADMINISTRATIVE PENALTY. A person who  
13 violates a rule or order of the authority is subject to an  
14 administrative penalty of not more than \$5,000, as determined by  
15 the board, for each violation or each day of a continuing violation.  
16 The person shall pay the penalty to the authority.

17 Sec. 8601.155. DISBURSEMENTS. (a) The authority may  
18 disburse authority money by check, draft, order, federal reserve  
19 wire system, or other instrument or authorization.

20 (b) Except as provided by Subsection (c), disbursements of  
21 the authority must be signed by at least a majority of the  
22 directors.

23 (c) The board by resolution may allow the general manager,  
24 treasurer, bookkeeper, or other employee or representative of the  
25 authority to sign disbursements.

26 Sec. 8601.156. NO AD VALOREM TAXATION OR SPECIAL  
27 ASSESSMENTS. The authority may not impose an ad valorem tax or a

1 special assessment.

2 Sec. 8601.157. FISCAL YEAR. The authority's fiscal year  
3 begins on October 1 and ends on September 30.

4 Sec. 8601.158. FRANCHISE FEES. The authority may not  
5 assess or collect a franchise fee for the use of its real property.  
6 The authority may pay a franchise fee to another governmental  
7 entity.

8 SUBCHAPTER E. BONDS AND NOTES

9 Sec. 8601.201. REVENUE BONDS AND NOTES. (a) To accomplish  
10 the purposes of the authority, the authority may issue bonds or  
11 notes payable solely from and secured by all or part of any funds or  
12 any revenue from any source or sources, including:

13 (1) tolls, fees, user fees, impact fees, rates, and  
14 other charges the authority imposes or collects;

15 (2) the sale of water, water services, water rights or  
16 capacity, water transmission rights or services, water pumping,  
17 sewer services, or any other service or product of the authority  
18 provided inside or outside the boundaries of the authority;

19 (3) grants or gifts;

20 (4) the ownership or operation of all or a designated  
21 part of the authority's works, improvements, facilities, plants, or  
22 equipment; and

23 (5) contracts between the authority and a member  
24 entity, customer, or any other person.

25 (b) Bonds or notes issued by the authority may be first or  
26 subordinate lien obligations at the board's discretion.

27 (c) In connection with any bonds or notes of the authority,

1 the authority may exercise any power of an issuer under Chapter  
2 1371, Government Code.

3 (d) The authority may conduct a public, private, or  
4 negotiated sale of the bonds or notes.

5 (e) The authority may enter into one or more indentures of  
6 trust to further secure its bonds or notes.

7 (f) The authority may issue bonds or notes in more than one  
8 series as necessary to carry out the purposes of this chapter. In  
9 issuing bonds or notes secured by revenue of the authority, the  
10 authority may reserve the right to issue additional bonds or notes  
11 secured by the authority's revenue that are on parity with or are  
12 senior or subordinate to the bonds or notes issued earlier.

13 (g) A resolution of the board or a trust indenture securing  
14 the bonds or notes may specify additional provisions that  
15 constitute a contract between the authority and its bondholders or  
16 noteholders.

17 (h) Bonds and notes may be additionally secured by deed of  
18 trust or mortgage on any or all of the authority's facilities.

19 (i) Bonds and notes issued by the authority are not subject  
20 to approval by the Texas Commission on Environmental Quality, and  
21 commission rules regarding bonds or notes do not apply to bonds or  
22 notes issued by the authority.

23 Sec. 8601.202. ELECTION NOT REQUIRED. The authority is not  
24 required to hold an election to approve the issuance of revenue  
25 bonds or notes or other obligations under this subchapter.

26 Sec. 8601.203. USE OF REVENUE AND GROWTH PROJECTIONS. For  
27 the purposes of attorney general review and approval and in lieu of



1 any other manner of demonstrating the ability to pay debt service  
2 and satisfy any other pecuniary obligations relating to bonds,  
3 notes, or other obligations, the authority may demonstrate its  
4 ability to satisfy the debt service and those obligations using  
5 accumulated funds of the authority and revenue and growth  
6 projections prepared by a professional utility rate consultant at  
7 the direction of the authority. If the resolution authorizing the  
8 issuance of the bonds, notes, or other obligations provides that  
9 the authority intends to increase rates to the extent necessary to  
10 pay debt service and satisfy any other pecuniary obligations  
11 arising under the bonds, notes, or other obligations, the revenue  
12 projections prepared by a professional utility rate consultant may  
13 include forecast rate increases and accumulated and available fund  
14 balances as determined by the authority.

15 SECTION 5. On the effective date of this Act:

16 (1) the Hill Country Regional Water Authority shall  
17 assume all assets, liabilities, and obligations of the West Travis  
18 County Public Utility Agency;

19 (2) all contracts and written agreements of the West  
20 Travis County Public Utility Agency are assigned to and assumed by  
21 the Hill Country Regional Water Authority; and

22 (3) the Utilities Installment Purchase Agreement  
23 entered January 17, 2012, between the Lower Colorado River  
24 Authority and the West Travis County Public Utility Agency, as  
25 amended, is assigned to and assumed by the Hill Country Regional  
26 Water Authority created by Section 4 of this Act and is valid and  
27 enforceable by its terms. Governmental immunity from liability or

1 suit is waived for the parties to enforce that Utilities  
2 Installment Purchase Agreement to the extent provided by Subchapter  
3 I, Chapter 271, Local Government Code.

4 SECTION 6. (a) The legal notice of the intention to  
5 introduce this Act, setting forth the general substance of this  
6 Act, has been published as provided by law, and the notice and a  
7 copy of this Act have been furnished to all persons, agencies,  
8 officials, or entities to which they are required to be furnished  
9 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
10 Government Code.

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

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

18 (d) All requirements of the constitution and laws of this  
19 state and the rules and procedures of the legislature with respect  
20 to the notice, introduction, and passage of this Act are fulfilled  
21 and accomplished.

22 SECTION 7. (a) Any eminent domain powers granted by general  
23 law that apply to the Hill Country Regional Water Authority, as  
24 created by this Act, take effect only if this Act receives a  
25 two-thirds vote of all the members elected to each house.

26 (b) If this Act does not receive a two-thirds vote of all the  
27 members elected to each house, Subchapter C, Chapter 8601, Special

1 District Local Laws Code, as added by this Act, is amended by adding  
2 Section 8601.109 to read as follows:

3 Sec. 8601.109. NO EMINENT DOMAIN POWER. The district may  
4 not exercise the power of eminent domain.

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

8 SECTION 8. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2013.