

By: Workman

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 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.

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 District No. 5.

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

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

(b) All land and other property included in the territory of the authority will benefit from the works and projects to be accomplished by the authority under powers conferred by Section 59,

Article XVI, Texas Constitution, and powers granted under this chapter.

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

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

Sec. 8601.005. APPLICABILITY OF OTHER LAW. (a) Except as otherwise provided by this chapter, Chapter 49, Water Code, applies 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.

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

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

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

7 Position 1--Larry Fox;

8 Position 2--Ray Whisenant;

9 Position 3--Michael Murphy;

10 Position 4--Scott Roberts; and

11 Position 5--Bill Goodwin.

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

15 (c) A vacancy in a position on the initial board shall be
16 filled in the manner provided by Section 8601.053 for making an
17 appointment to the same position, except that an appointment to
18 fill a vacancy in position 4 or 5 does not require that both
19 positions be seated simultaneously.

20 (d) This section expires September 30, 2016.

21 Sec. 8601.052. ELIGIBILITY TO SERVE AS A DIRECTOR. (a) To
22 be eligible to serve as a director, an individual must be at least
23 18 years of age.

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

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

27 (2) in position 4, an individual must reside in Hays

1 County; or

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

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

8 (1) West Travis County Municipal Utility District No.
9 5 shall appoint the director who serves in position 1;

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

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

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

17 (5) the City of Bee Cave shall appoint the director who
18 serves in position 5, subject to approval by the member entities as
19 provided by Subsection (b).

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

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

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

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

7 (c) Section 49.105, Water Code, does not apply to the
8 authority.

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

13 (b) An employee, officer, or member of the governing body of
14 a public entity may serve as a director but may not have a personal
15 interest in a contract executed by the authority other than as an
16 employee, officer, or member of the governing body of the public
17 entity. If a director has a personal interest in a contract
18 executed by the authority, the director must abstain from any
19 participation in the matter. A director is not required to abstain
20 from further participation in the matter if a majority of the
21 members of the board of directors have similar interests in the same
22 official action.

23 Sec. 8601.056. COMPENSATION; EXPENSES. (a) A director
24 serves without compensation but, subject to board approval, may be
25 reimbursed for travel or other expenses incurred on behalf of the
26 authority if the director presents the board with a verified
27 statement of the expenses.

1 (b) Section 49.060, Water Code, does not apply to the
2 authority.

3 Sec. 8601.057. QUORUM. A majority of the membership of the
4 board constitutes a quorum for any meeting, and a concurrence of a
5 majority of the entire membership of the board is sufficient for
6 transacting any business of the authority.

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

11 (b) The president is the chief executive officer of the
12 authority, presides at all meetings of the board, and shall execute
13 all documents on behalf of the authority unless the board
14 authorizes the general manager or other representative of the
15 authority to execute a document or documents on behalf of the
16 authority.

17 (c) The vice president shall act as president in case of the
18 absence or disability of the president.

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

22 (e) The board may appoint another director, the general
23 manager, or any employee as assistant or deputy secretary to assist
24 the secretary, and any such person shall be entitled to certify as
25 to the authenticity of any record of the authority, including all
26 proceedings relating to bonds, contracts, or indebtedness of the
27 authority.

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

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

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

- 9 (1) the Hays County judge;
10 (2) the City of Bee Cave city administrator; or
11 (3) the president of the West Travis County Municipal
12 Utility District No. 5 Board of Directors.

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

16 (d) A person designated as an ex officio member of the board
17 is not counted for purposes of determining a quorum under Section
18 8601.057.

19 SUBCHAPTER C. POWERS AND DUTIES

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

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

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

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

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

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

17 Sec. 8601.103. AUTHORITY POLICIES, RULES, AND BYLAWS. The
18 authority may adopt and enforce policies, rules, and bylaws
19 reasonably required to implement this chapter, including rules
20 governing procedures before the board and rules regarding
21 implementation, enforcement, and any other matters related to the
22 exercise of the rights, powers, privileges, and functions conferred
23 on the authority by this chapter for the provision of water and
24 wastewater service.

25 Sec. 8601.104. EXPANSION OF SERVICES. (a) In this section,
26 "West Travis County Water and Wastewater Systems" means those water
27 and wastewater systems that were owned and operated before the

1 effective date of the Act enacting this chapter by the West Travis
2 County Public Utility Agency pursuant to agreement with the member
3 entities.

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

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

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

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

27 (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.

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

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8601.151. FEES, RATES, AND OTHER CHARGES. The board shall establish, charge, and collect tolls, fees, user fees, rates, and other charges for the sale or use of water, water connections, wastewater service, wastewater connections, or other services sold, furnished, or supplied by the authority. The tolls, fees, user fees, rates, and other charges must be reasonable and nondiscriminatory and sufficient to produce revenue adequate to:

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

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

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

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

(5) fulfill the terms of any agreements made with the bondholders, other counterparties or creditors, or with any person on their behalf.

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

Sec. 8601.153. LATE OR PARTIAL PAYMENTS: INTEREST AND PENALTIES. (a) The board may require the payment of interest on

1 any late or unpaid tolls, fees, user fees, impact fees, rates, or
2 other charges due the authority. The interest rate may not exceed
3 the interest rate permitted by Section 2251.025, Government Code.

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

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

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

14 (b) Except as provided by Subsection (c), disbursements of
15 the authority must be signed by at least a majority of the
16 directors.

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

20 Sec. 8601.156. NO AD VALOREM TAXATION OR SPECIAL
21 ASSESSMENTS. The authority may not impose an ad valorem tax or a
22 special assessment.

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

25 Sec. 8601.158. FRANCHISE FEES. The authority may not
26 assess or collect a franchise fee for the use of its real property.
27 The authority may pay a franchise fee to another governmental

1 entity.

2 SUBCHAPTER E. BONDS AND NOTES

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

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

9 (2) the sale of water, water services, water rights or
10 capacity, water transmission rights or services, water pumping,
11 sewer services, or any other service or product of the authority
12 provided inside or outside the boundaries of the authority;

13 (3) grants or gifts;

14 (4) the ownership or operation of all or a designated
15 part of the authority's works, improvements, facilities, plants, or
16 equipment; and

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

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

21 (c) In connection with any bonds or notes of the authority,
22 the authority may exercise any power of an issuer under Chapter
23 1371, Government Code.

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

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

1 (f) The authority may issue bonds or notes in more than one
2 series as necessary to carry out the purposes of this chapter. In
3 issuing bonds or notes secured by revenue of the authority, the
4 authority may reserve the right to issue additional bonds or notes
5 secured by the authority's revenue that are on parity with or are
6 senior or subordinate to the bonds or notes issued earlier.

7 (g) A resolution of the board or a trust indenture securing
8 the bonds or notes may specify additional provisions that
9 constitute a contract between the authority and its bondholders or
10 noteholders.

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

13 (i) Bonds and notes issued by the authority are not subject
14 to approval by the Texas Commission on Environmental Quality, and
15 commission rules regarding bonds or notes do not apply to bonds or
16 notes issued by the authority.

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

20 Sec. 8601.203. USE OF REVENUE AND GROWTH PROJECTIONS. For
21 the purposes of attorney general review and approval and in lieu of
22 any other manner of demonstrating the ability to pay debt service
23 and satisfy any other pecuniary obligations relating to bonds,
24 notes, or other obligations, the authority may demonstrate its
25 ability to satisfy the debt service and those obligations using
26 accumulated funds of the authority and revenue and growth
27 projections prepared by a professional utility rate consultant at

1 the direction of the authority. If the resolution authorizing the
2 issuance of the bonds, notes, or other obligations provides that
3 the authority intends to increase rates to the extent necessary to
4 pay debt service and satisfy any other pecuniary obligations
5 arising under the bonds, notes, or other obligations, the revenue
6 projections prepared by a professional utility rate consultant may
7 include forecast rate increases and accumulated and available fund
8 balances as determined by the authority.

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

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

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

16 (3) the Utilities Installment Purchase Agreement
17 entered January 17, 2012, between the Lower Colorado River
18 Authority and the West Travis County Public Utility Agency, as
19 amended, is assigned to and assumed by the Hill Country Regional
20 Water Authority created by Section 4 of this Act and is valid and
21 enforceable by its terms. Governmental immunity from liability or
22 suit is waived for the parties to enforce that Utilities
23 Installment Purchase Agreement to the extent provided by Subchapter
24 I, Chapter 271, Local Government Code.

25 SECTION 6. (a) The legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished
3 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4 Government Code.

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

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

12 (d) All requirements of the constitution and laws of this
13 state and the rules and procedures of the legislature with respect
14 to the notice, introduction, and passage of this Act are fulfilled
15 and accomplished.

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

20 (b) If this Act does not receive a two-thirds vote of all the
21 members elected to each house, Subchapter C, Chapter 8601, Special
22 District Local Laws Code, as added by this Act, is amended by adding
23 Section 8601.109 to read as follows:

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

26 (c) This section is not intended to be an expression of a
27 legislative interpretation of the requirements of Section 17(c),

1 Article I, Texas Constitution.

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