

AN ACT

relating to the operation, powers, and duties of certain water districts.

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

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

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

(1) wastewater collection and treatment;

(2) water supply and distribution; or

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

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

(1) evaluate the consumption of electricity;

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

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

SECTION 2. Section 375.161, Local Government Code, is amended to read as follows:

Sec. 375.161. CERTAIN RESIDENTIAL PROPERTY EXEMPT.

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

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

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

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

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

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

22 (b) A municipality may enter into a contract with a water  
23 district or with a corporation organized to be operated without  
24 profit under which the district or corporation will acquire for the  
25 benefit of and convey to the municipality, either separately or  
26 together, one or more projects ~~[a water supply or treatment system,~~  
27 ~~a water distribution system, a sanitary sewage collection or~~

1 ~~treatment system, or works or improvements necessary for drainage~~  
2 ~~of land in the municipality~~]. In connection with the acquisition,  
3 the district or corporation shall improve, enlarge, or extend the  
4 existing municipal facilities as provided by the contract.

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

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

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

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

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

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

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

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

17 SECTION 4. Section 49.059, Water Code, is amended to read as  
18 follows:

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

22 (1) an individual certified as a registered Texas  
23 assessor-collector; or

24 (2) a firm, organization, association, partnership,  
25 corporation, or other legal entity if an individual certified as a  
26 registered Texas assessor-collector owns an interest in or is  
27 employed by the firm, organization, association, partnership,

1 corporation, or other legal entity.

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

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

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

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

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

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

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

27 (e) [~~(b)~~] Within 60 days after the board determines a

1 relationship or employment exists which constitutes a  
2 disqualification under Subsection (d) [~~(a)~~], it shall replace the  
3 person serving as tax assessor and collector with a person who would  
4 not be disqualified.

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

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

10 SECTION 5. Section 49.063, Water Code, is amended to read as  
11 follows:

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

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

23 (1) [Neither] failure to provide notice of the meeting  
24 if the meeting is a regular meeting;

25 (2) [nor] an insubstantial defect in notice of the  
26 [any] meeting; or

27 (3) failure of a county clerk to timely or properly

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

5 SECTION 6. Subsections (a), (b), (c), and (h), Section  
6 49.102, Water Code, are amended to read as follows:

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

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

17 (c) The ballots for a confirmation election shall be printed  
18 to provide for voting "For District" and "Against District."  
19 Ballots for a directors election shall provide the names of the  
20 persons appointed by the governing body who qualified and are  
21 serving as temporary directors at the time the election is called.  
22 If the district has received an application by a write-in  
23 candidate, the ~~[The]~~ ballots shall also have blank places after the  
24 names of the temporary directors in which a voter may write the  
25 names of any candidates appearing on the list of write-in  
26 candidates required by Section 146.031, Election Code ~~[other~~  
27 ~~persons for directors]~~.

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

6 SECTION 7. Subsections (a) and (b), Section 49.103, Water  
7 Code, are amended to read as follows:

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

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

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

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

19 (1) has 10 or fewer registered voters; and

20 (2) holds an election jointly with a county in which  
21 the district is wholly or partly located.

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

25 (1) the election results indicate that the number of  
26 votes cast in the election was greater than the number of registered  
27 voters in the district;



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

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

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

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

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

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

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

18           SECTION 9. Subsections (c) and (d), Section 49.105, Water  
19 Code, are amended to read as follows:

20           (c) If the number of directors is reduced to fewer than a  
21 majority or if a vacancy continues beyond the 90th day after the  
22 date the vacancy occurs, the vacancy or vacancies may [~~shall~~] be  
23 filled by appointment by the commission if the district is required  
24 by Section 49.181 to obtain commission approval of its bonds or by  
25 the county commissioners court if the district was created by the  
26 county commissioners court, regardless of whether a petition has  
27 been presented to the board under Subsection (b). An appointed

1 director shall serve for the unexpired term of the director he or  
2 she is replacing.

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

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

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

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

26 (i) A contract between districts to provide facilities or  
27 services is not required to specify the maximum amount of bonds or

1 expenditures authorized under the contract if:

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

5 (A) included in the service area as proposed to  
6 be enlarged; or

7 (B) served by the facilities or services provided  
8 in the contract;

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

11 (A) on an emergency basis; or

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

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

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

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

27 Sec. 49.110. ELECTION JUDGE. (a) The notice requirements

1 for the appointment of a presiding election judge under Section  
2 32.009, Election Code, do not apply to an election held by a  
3 district.

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

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

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

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

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

21 (b) A district eligible for the exemption under Subsection  
22 (a) must publish notice in a newspaper of general circulation in an  
23 area that includes the district or mail notice to each voter in the  
24 district regarding the district's intention to hold an election  
25 without providing a voting station that meets the requirements for  
26 accessibility under 42 U.S.C. Section 15481(a)(3) on election day  
27 and during the period for early voting by personal appearance. The

1 notice must be published or mailed not later than the later of:

2 (1) the 75th day before the date of the election; or

3 (2) the date on which the district adopts the order  
4 calling the election.

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

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

9 (2) provide information on how to submit such a  
10 request.

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

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

23 Sec. 49.113. NOTICE FOR FILING FOR PLACE ON BALLOT. A  
24 notice required by Section 141.040, Election Code, must be posted  
25 at the district's administrative office in the district or at the  
26 public place established by the district under Section 49.063 of  
27 this chapter not later than the 30th day before the deadline for a

1 candidate to file an application for a place on the ballot of a  
2 district directors' election.

3 SECTION 12. Subsection (c), Section 49.151, Water Code, is  
4 amended to read as follows:

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

10 SECTION 13. Subsections (a) and (c), Section 49.154, Water  
11 Code, are amended to read as follows:

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

24 (c) Bond anticipation notes may be issued for any purpose  
25 for which bonds of the district may be issued [~~have previously been~~  
26 ~~voted~~] or [~~may be issued~~] for the purpose of refunding previously  
27 issued bond anticipation notes. A district may covenant with the

1 purchasers of the bond anticipation notes that the district will  
2 use the proceeds of sale of any bonds in the process of issuance for  
3 the purpose of refunding the bond anticipation notes, in which case  
4 the board will be required to use the proceeds received from sale of  
5 the bonds in the process of issuance to pay principal, interest, or  
6 redemption price on the bond anticipation notes.

7 SECTION 14. Subsection (a), Section 49.181, Water Code, is  
8 amended to read as follows:

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

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

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

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

25 (4) refunding bonds issued to refund bonds described  
26 by Subdivision (3); or

27 (5) bonds issued by a public utility agency created

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

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

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

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

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

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

25 SECTION 16. Section 49.212, Water Code, is amended by  
26 amending Subsection (d) and adding Subsections (d-1) and (d-2) to  
27 read as follows:



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

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

14 (2) the charge or fee:

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

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

24 (C) is [~~(iii) if~~] made by a district for retail or  
25 wholesale service on land that at the time of platting was not being  
26 provided with water, [~~or~~] wastewater, drainage, or storm water  
27 detention or retention service by the district [~~7, shall not be~~

1 ~~deemed to be an impact fee under Chapter 395, Local Government~~  
2 ~~Code].~~

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

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

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

- 19 (b) A district may:
- 20 (1) accept a credit card for the payment of any fees  
21 and charges imposed by the district;
  - 22 (2) collect a fee~~[, not to exceed five percent of the~~  
23 ~~amount of the fee or charge being paid,]~~ that is reasonably related  
24 to the expense incurred by the district in processing the payment by  
25 credit card; and
  - 26 (3) collect a service charge for the expense incurred  
27 by the district in collecting the original fee or charge if the

1 payment by credit card is not honored by the credit card company on  
2 which the funds are drawn.

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

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

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

17 SECTION 19. Subsections (d) and (e), Section 49.273, Water  
18 Code, are amended to read as follows:

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

1 once a week for two consecutive weeks before the date that the bids  
2 are opened, and the first publication must ~~[shall]~~ be not later than  
3 the 14th ~~[21st]~~ day before the date of the opening of the sealed  
4 bids.

5 (e) For contracts over \$25,000 but not more than \$75,000  
6 ~~[\$50,000]~~, the board shall solicit written competitive bids on  
7 uniform written specifications from at least three bidders.

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

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

22 (b) After complying with the requirements of this section  
23 ~~[approval of the district electors of a plan to operate, jointly~~  
24 ~~operate, or jointly fund the operation of a fire department, and~~  
25 ~~after complying with Subsections (g), (h), and (i)]~~, the district  
26 or districts shall provide an adequate system and water supply for  
27 fire-fighting purposes, may purchase necessary land, may construct

1 and purchase necessary buildings, facilities, and equipment, and  
2 may employ or contract with a fire department to employ all  
3 necessary personnel including supervisory personnel to operate the  
4 fire department.

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

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

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

1 ~~for voting for or against the proposition: "The implementation of~~  
2 ~~the plan for (operation/joint operation) of a fire department"; or~~  
3 ~~"The plan and contract to provide fire-fighting services for the~~  
4 ~~district."]~~

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

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

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

23 (1) "Recreational facilities" means parks,  
24 landscaping, parkways, greenbelts, sidewalks, trails, public  
25 right-of-way beautification projects, and recreational equipment  
26 and facilities. The term includes associated street and security  
27 lighting. The term does not include a minor improvement or

1 beautification project to land acquired or to be acquired as part of  
2 a district's water, sewer, or drainage facilities.

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

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

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

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

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

21 (2) sound engineering principles;

22 (3) the impact on adjoining property;

23 (4) the availability of sites that meet the  
24 requirements for the proposed use;

25 (5) requirements for sanitary control;

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

- 1           (7) benefits to storm water quality; and
- 2           (8) anticipated expansions of facilities resulting
- 3 from:
- 4           (A) future growth and demand for district
- 5 facilities; or
- 6           (B) changes in regulatory requirements.

7           SECTION 23. Subsections (a) and (b), Section 49.4645, Water  
8 Code, are amended to read as follows:

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



1 property in a district under this section, the district may use an  
2 estimate of the value provided by the central appraisal district.

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

- 5 (1) indoor or outdoor swimming pools; or
- 6 (2) golf courses.

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

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

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

- 26 (1) be a resident of the state;
- 27 (2) [~~r~~] own land subject to taxation in the district or

1 be a qualified voter in the district; [7] and

2 (3) be at least 18 years of age.

3 (b) Section 49.052 does not apply to a district governed by  
4 this chapter whose principal purpose is providing water for  
5 irrigation.

6 SECTION 25. Section 51.335, Water Code, is amended by  
7 amending Subsection (b) and adding Subsection (c) to read as  
8 follows:

9 (b) The district shall not usurp functions or duplicate a  
10 service already adequately exercised or rendered by the other  
11 governmental agency except:

12 (1) under a valid contract with the other governmental  
13 agency; or

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

15 (c) The district may finance, develop, and maintain  
16 recreational facilities under Subchapter N, Chapter 49, even if  
17 similar facilities may be provided by a political subdivision or  
18 other governmental entity included wholly or partly in the  
19 district.

20 SECTION 26. Section 51.523, Water Code, is amended to read  
21 as follows:

22 Sec. 51.523. BALLOTS. The ballot for an election under this  
23 subchapter shall be printed to provide for voting for or against  
24 substantially the proposition: "Designation of the area, issuance  
25 of bonds, ~~and~~ levy of a tax to retire the bonds, and levy of a  
26 maintenance tax."

27 SECTION 27. Section 51.527, Water Code, is amended by

1 adding Subsection (c) to read as follows:

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

9 SECTION 28. Subsection (f), Section 54.016, Water Code, is  
10 amended to read as follows:

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

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

22 (2) an allocation of the taxes or revenues of the  
23 district or the city which will assure that, following the date of  
24 the inclusion of all the district's territory within the corporate  
25 limits of the city, the total annual ad valorem taxes collected by  
26 the city and the district from taxable property within the district  
27 does not exceed an amount greater than the city's ad valorem tax

1 upon such property;

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

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

8 SECTION 29. Section 54.236, Water Code, is amended to read  
9 as follows:

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

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

19 SECTION 30. Section 54.739, Water Code, is amended to read  
20 as follows:

21 Sec. 54.739. SUBSTITUTING LAND OF EQUAL VALUE. After the  
22 district is organized and has obtained voter approval for the  
23 issuance of, or has sold, bonds payable wholly or partly from ad  
24 valorem taxes [~~acquires facilities with which to function for the~~  
25 ~~purposes for which it was organized, and votes, issues and sells~~  
26 ~~bonds for such purposes~~], land within the district boundaries  
27 subject to taxation that does not need or utilize the services of

1 the district may be excluded and other land not within the  
2 boundaries of the district may be included within the boundaries of  
3 the district without impairment of the security for payment of the  
4 bonds or invalidation of any prior bond election, as provided by  
5 this section and Sections 54.740 through 54.747.

6 SECTION 31. Section 54.744, Water Code, is amended to read  
7 as follows:

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

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

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

1 value of the excluded land.

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

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

18 SECTION 32. Subsection (g), Section 49.103, Water Code, is  
19 repealed.

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

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

25 (2) the agreement strictly complies with the  
26 requirements of Subsection (f), Section 54.016, Water Code, as that  
27 section existed immediately before the effective date of this Act;

1 and

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 902 passed the Senate on March 21, 2013, by the following vote: Yeas 30, Nays 1.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 902 passed the House on May 2, 2013, by the following vote: Yeas 147, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor