

1-1 By: Fraser S.B. No. 902
 1-2 (In the Senate - Filed February 27, 2013; March 5, 2013,
 1-3 read first time and referred to Committee on Natural Resources;
 1-4 March 13, 2013, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; March 13, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18			X	

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the operation, powers, and duties of certain water
 1-22 districts.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 388.005, Health and Safety Code, is
 1-25 amended by adding Subsections (g) and (h) to read as follows:

1-26 (g) Except as provided by Subsection (h), this section does
 1-27 not apply to the electricity consumption of a district as defined by
 1-28 Section 36.001 or 49.001, Water Code, that relates to the operation
 1-29 and maintenance of facilities or improvements for:

1-30 (1) wastewater collection and treatment;

1-31 (2) water supply and distribution; or

1-32 (3) storm water diversion, detention, or pumping.

1-33 (h) At least once every five years, a political subdivision
 1-34 that is a district as defined by Section 36.001 or 49.001, Water
 1-35 Code, shall for district facilities described by Subsection (g):

1-36 (1) evaluate the consumption of electricity;

1-37 (2) establish goals to reduce the consumption of
 1-38 electricity; and

1-39 (3) identify and implement cost-effective energy
 1-40 efficiency measures to reduce the consumption of electricity.

1-41 SECTION 2. Section 375.161, Local Government Code, is
 1-42 amended to read as follows:

1-43 Sec. 375.161. CERTAIN RESIDENTIAL PROPERTY EXEMPT.

1-44 (a) Except as provided by Subsection (b), the [The] board may not
 1-45 impose an impact fee, assessment, tax, or other requirement for
 1-46 payment, construction, alteration, or dedication under this
 1-47 chapter on single-family detached residential property, duplexes,
 1-48 triplexes, and fourplexes [quadraplexes].

1-49 (b) This section does not apply to a tax authorized or
 1-50 approved by the voters of the district or a required payment for a
 1-51 service provided by the district, including water and sewer
 1-52 services.

1-53 SECTION 3. Section 552.014, Local Government Code, is
 1-54 amended to read as follows:

1-55 Sec. 552.014. CONTRACTS WITH WATER DISTRICTS OR NONPROFIT
 1-56 CORPORATIONS. (a) In this section:

1-57 (1) "Project" means a water supply or treatment
 1-58 system, a water distribution system, a sanitary sewage collection
 1-59 or treatment system, works or improvements necessary for drainage
 1-60 of land, recreational facilities, roads and improvements in aid of
 1-61 roads, or facilities to provide firefighting services.

2-1 (2) "Water district" [~~,"water district"~~] means a
2-2 district created under Article XVI, Section 59, of the Texas
2-3 Constitution.

2-4 (b) A municipality may enter into a contract with a water
2-5 district or with a corporation organized to be operated without
2-6 profit under which the district or corporation will acquire for the
2-7 benefit of and convey to the municipality, either separately or
2-8 together, one or more projects [~~a water supply or treatment system,~~
2-9 ~~a water distribution system, a sanitary sewage collection or~~
2-10 ~~treatment system, or works or improvements necessary for drainage~~
2-11 ~~of land in the municipality~~]. In connection with the acquisition,
2-12 the district or corporation shall improve, enlarge, or extend the
2-13 existing municipal facilities as provided by the contract.

2-14 (c) If the contract provides that the municipality assumes
2-15 ownership of the project [~~water, sewer, or drainage system~~] on
2-16 completion of construction or at the time that all debt incurred by
2-17 the district or corporation in the acquisition, construction,
2-18 improvement, or extension of the project [~~system~~] is paid in full,
2-19 the municipality may make payments to the district or corporation
2-20 for project [~~water, sewer, or drainage~~] services to part or all of
2-21 the residents of the municipality. The contract may provide for
2-22 purchase of the project [~~system~~] by the municipality through
2-23 periodic payments to the district or corporation in amounts that,
2-24 together with the net income of the district or corporation, are
2-25 sufficient to pay the principal of and interest on the bonds of the
2-26 district or corporation as they become due. The contract may
2-27 provide:

2-28 (1) that any payments due under this section are
2-29 payable from and are secured by a pledge of a specified part of the
2-30 revenues of the municipality, including revenues from municipal
2-31 sales and use taxes [~~municipal water system, sewer system, or~~
2-32 ~~drainage system~~];

2-33 (2) for the levying of a tax to make payments due under
2-34 this section; or

2-35 (3) that the payments due under this section be made
2-36 from a combination of revenues [~~from the system~~] and taxes.

2-37 (d) The contract may provide that the district or
2-38 corporation may use the streets, alleys, and other public ways and
2-39 places of the municipality for project [~~water, sewer, or drainage~~]
2-40 purposes for a period that ends at the time the indebtedness of the
2-41 district or corporation is paid in full and the municipality
2-42 acquires title to the project [~~system~~] in accordance with this
2-43 section.

2-44 (e) The contract may provide for the operation of the
2-45 project [~~system~~] by the municipality, and, if so authorized, the
2-46 municipality may operate the project [~~system~~].

2-47 (f) A contract under this section must be authorized by a
2-48 majority vote of the governing body of the municipality.

2-49 (g) This section does not authorize a water district or
2-50 corporation described by Subsection (b) to participate in a project
2-51 that the water district or corporation is not authorized to
2-52 participate in under other law.

2-53 SECTION 4. Section 49.059, Water Code, is amended to read as
2-54 follows:

2-55 Sec. 49.059. [~~DISQUALIFICATION OF~~] TAX ASSESSOR AND
2-56 COLLECTOR. (a) A district may employ or contract with any person
2-57 to serve as its tax assessor and collector who is:

2-58 (1) an individual certified as a registered Texas
2-59 assessor-collector; or

2-60 (2) a firm, organization, association, partnership,
2-61 corporation, or other legal entity if an individual certified as a
2-62 registered Texas assessor-collector owns an interest in or is
2-63 employed by the firm, organization, association, partnership,
2-64 corporation, or other legal entity.

2-65 (b) A tax assessor and collector employed or contracted for
2-66 under this section is not required to be a natural person.

2-67 (c) A firm, organization, association, partnership,
2-68 corporation, or other legal entity serving as district tax assessor
2-69 and collector shall give a bond as required by Section 49.057 for a

3-1 natural person.

3-2 (d) No person may serve as tax assessor and collector of a
3-3 district providing potable water or sewer utility services to
3-4 household users if that person:

3-5 (1) is a natural person related within the third
3-6 degree of affinity or consanguinity to any developer of property in
3-7 the district, a member of the board, or the manager, engineer, or
3-8 attorney for the district;

3-9 (2) is or was within two years immediately preceding
3-10 the assumption of assessment and collection duties with the
3-11 district an employee of any developer of property in the district or
3-12 any director, manager, engineer, or attorney for the district;

3-13 (3) owns an interest in or is employed by any
3-14 corporation organized for the purpose of tax assessment and
3-15 collection services, a substantial portion of the stock of which is
3-16 owned by a developer of property within the district or any
3-17 director, manager, engineer, or attorney for the district; or

3-18 (4) is directly or through a corporation developing
3-19 land in the district or is a director, engineer, or attorney for the
3-20 district.

3-21 (e) [~~(b)~~] Within 60 days after the board determines a
3-22 relationship or employment exists which constitutes a
3-23 disqualification under Subsection (d) [~~(a)~~], it shall replace the
3-24 person serving as tax assessor and collector with a person who would
3-25 not be disqualified.

3-26 (f) [~~(c)~~] Any person who wilfully violates the provisions
3-27 of Subsection (d) [~~(a)~~] is guilty of a misdemeanor and on conviction
3-28 shall be fined not less than \$100 nor more than \$1,000.

3-29 (g) [~~(d)~~] As used in this section, "developer of property in
3-30 the district" has the same meaning as in Section 49.052(d).

3-31 SECTION 5. Section 49.063, Water Code, is amended to read as
3-32 follows:

3-33 Sec. 49.063. NOTICE OF MEETINGS. (a) Notice of meetings
3-34 of the board shall be given as set forth in the open meetings law,
3-35 Chapter 551, Government Code, except that if a district does not
3-36 have a meeting place within the district, the district shall post
3-37 notice of its meeting at a public place within the district
3-38 specified by the board in a written resolution, rather than at its
3-39 administrative office. The board shall specify such public place
3-40 to be a bulletin board or other place within the district which is
3-41 reasonably available to the public.

3-42 (b) The validity of an action taken at a board meeting is not
3-43 affected by:

3-44 (1) [~~Neither~~] failure to provide notice of the meeting
3-45 if the meeting is a regular meeting;

3-46 (2) [~~nor~~] an insubstantial defect in notice of the
3-47 [any] meeting; or

3-48 (3) failure of a county clerk to timely or properly
3-49 post or maintain public access to a notice of the meeting if notice
3-50 of the meeting is furnished to the county clerk in sufficient time
3-51 for posting under Section 551.043(a) or 551.045, Government Code
3-52 [shall affect the validity of any action taken at the meeting].

3-53 SECTION 6. Subsections (a), (b), (c), and (h), Section
3-54 49.102, Water Code, are amended to read as follows:

3-55 (a) Before issuing any bonds or other obligations, an
3-56 election shall be held within the boundaries of the proposed
3-57 district on a uniform election date provided by Section 41.001,
3-58 Election Code, to determine if the proposed district shall be
3-59 established and, if the directors of the district are required by
3-60 law to be elected, to elect permanent directors.

3-61 (b) Notice of a confirmation or director election shall
3-62 state the day and place or places for holding the election, the
3-63 propositions to be voted on, and, if applicable, the number of
3-64 directors to be voted on.

3-65 (c) The ballots for a confirmation election shall be printed
3-66 to provide for voting "For District" and "Against District."
3-67 Ballots for a directors election shall provide the names of the
3-68 persons appointed by the governing body who qualified and are
3-69 serving as temporary directors at the time the election is called.

4-1 If the district has received an application by a write-in
 4-2 candidate, the [The] ballots shall also have blank places after the
 4-3 names of the temporary directors in which a voter may write the
 4-4 names of any candidates appearing on the list of write-in
 4-5 candidates required by Section 146.031, Election Code [other
 4-6 persons for directors].

4-7 (h) Unless otherwise agreed, the elected directors shall
 4-8 decide the initial terms of office by lot, with a simple majority of
 4-9 the elected directors serving until the second succeeding directors
 4-10 election and the remaining elected directors serving until the next
 4-11 directors election.

4-12 SECTION 7. Subsections (a) and (b), Section 49.103, Water
 4-13 Code, are amended to read as follows:

4-14 (a) Except as provided by Section 49.102, the members of the
 4-15 board of a district shall serve staggered [for] four-year terms.

4-16 (b) After confirmation of a district, an [An] election shall
 4-17 be held on the uniform election date, provided by Section 41.001,
 4-18 [established by the] Election Code, in May of each even-numbered
 4-19 year to elect the appropriate number of directors.

4-20 SECTION 8. Subchapter D, Chapter 49, Water Code, is amended
 4-21 by adding Section 49.1045 to read as follows:

4-22 Sec. 49.1045. CERTIFICATION OF ELECTION RESULTS IN LESS
 4-23 POPULOUS DISTRICTS. (a) This section applies only to a district
 4-24 that:

4-25 (1) has 10 or fewer registered voters; and

4-26 (2) holds an election jointly with a county in which
 4-27 the district is wholly or partly located.

4-28 (b) A district may provide for an inquiry into and
 4-29 certification of the voting results of an election under this
 4-30 section if:

4-31 (1) the election results indicate that the number of
 4-32 votes cast in the election was greater than the number of registered
 4-33 voters in the district;

4-34 (2) the board determines that the election results are
 4-35 likely to be disputed in court; and

4-36 (3) the board can determine from the official list of
 4-37 registered voters prepared by the county voter registrar or county
 4-38 elections administrator for the district election which voters were
 4-39 qualified to vote in the district election and can determine from
 4-40 the signature roster from the joint election who voted in the joint
 4-41 election.

4-42 (c) To certify the district votes, the board by rule shall
 4-43 adopt a procedure to determine for each person who signed the
 4-44 signature roster as a voter in the joint election:

4-45 (1) whether the person's address on the day of the
 4-46 election was in the district; and

4-47 (2) how the person voted in the district election.

4-48 (d) The certified votes are the official election results.

4-49 (e) Certification of the results under this section does not
 4-50 preclude the filing of an election contest.

4-51 SECTION 9. Subsections (c) and (d), Section 49.105, Water
 4-52 Code, are amended to read as follows:

4-53 (c) If the number of directors is reduced to fewer than a
 4-54 majority or if a vacancy continues beyond the 90th day after the
 4-55 date the vacancy occurs, the vacancy or vacancies may [shall] be
 4-56 filled by appointment by the commission if the district is required
 4-57 by Section 49.181 to obtain commission approval of its bonds or by
 4-58 the county commissioners court if the district was created by the
 4-59 county commissioners court, regardless of whether a petition has
 4-60 been presented to the board under Subsection (b). An appointed
 4-61 director shall serve for the unexpired term of the director he or
 4-62 she is replacing.

4-63 (d) In the event of a failure to elect one or more members of
 4-64 the board of a district resulting from the absence of, or failure to
 4-65 vote by, the qualified voters in an election held by the district,
 4-66 the current members of the board or temporary board holding the
 4-67 positions not filled at such election shall be deemed to have been
 4-68 elected [re-elected] and shall serve an additional term of office,
 4-69 or, in the case of a temporary board member deemed elected under

5-1 this subsection, the initial term of office.

5-2 SECTION 10. Section 49.108, Water Code, is amended by
 5-3 adding Subsections (g), (h), and (i) to read as follows:

5-4 (g) On or before the first day for early voting by personal
 5-5 appearance at an election held to authorize a contract, a
 5-6 substantially final form of the contract must be filed in the office
 5-7 of the district and must be open to inspection by the public. The
 5-8 contract is not required to be attached as an exhibit to the order
 5-9 calling the election to authorize the contract.

5-10 (h) A single contract may contain multiple purposes or
 5-11 provisions for multiple facilities authorized by one or more
 5-12 constitutional provisions. The contract may generally describe the
 5-13 facilities to be acquired or financed by the district without
 5-14 reference to specific constitutional provisions. A contract
 5-15 described by this subsection may be submitted for approval in a
 5-16 single proposition at an election.

5-17 (i) A contract between districts to provide facilities or
 5-18 services is not required to specify the maximum amount of bonds or
 5-19 expenditures authorized under the contract if:

5-20 (1) the contract provides that the service area cannot
 5-21 be enlarged without the consent of at least two-thirds of the boards
 5-22 of directors of the districts that are:

5-23 (A) included in the service area as proposed to
 5-24 be enlarged; or

5-25 (B) served by the facilities or services provided
 5-26 in the contract;

5-27 (2) the contract provides that bonds or expenditures,
 5-28 payable wholly or partly from contract taxes, are issued or made:

5-29 (A) on an emergency basis; or

5-30 (B) to purchase, construct, acquire, own,
 5-31 operate, repair, improve, or extend services or facilities
 5-32 necessary to comply with changes in applicable regulatory
 5-33 requirements; or

5-34 (3) the contract provides that the bonds or
 5-35 expenditures require prior approval by any district that is
 5-36 obligated to pay debt service on those bonds or to pay for those
 5-37 expenditures wholly or partly with contract taxes.

5-38 SECTION 11. Subchapter D, Chapter 49, Water Code, is
 5-39 amended by adding Sections 49.109, 49.110, 49.111, 49.112, and
 5-40 49.113 to read as follows:

5-41 Sec. 49.109. AGENT DURING ELECTION PERIOD. The board may
 5-42 appoint a person, including a district officer, employee, or
 5-43 consultant, to serve as the district's agent under Section 31.123,
 5-44 Election Code.

5-45 Sec. 49.110. ELECTION JUDGE. (a) The notice requirements
 5-46 for the appointment of a presiding election judge under Section
 5-47 32.009, Election Code, do not apply to an election held by a
 5-48 district.

5-49 (b) To serve as an election judge in an election held by a
 5-50 district, a person must be a registered voter of the county in which
 5-51 the district is wholly or partly located. To the extent of any
 5-52 conflict with Section 32.051, Election Code, this section controls.

5-53 Sec. 49.111. EXEMPTIONS FROM USE OF ACCESSIBLE VOTING
 5-54 SYSTEMS. (a) Notwithstanding Sections 61.012 and 61.013,
 5-55 Election Code, a district is exempt from the acquisition, lease, or
 5-56 use of an electronic voting system for an election if:

5-57 (1) the election is a confirmation election or an
 5-58 election held jointly with a confirmation election on the same date
 5-59 and in conjunction with the confirmation election, except for an
 5-60 election in which a federal office appears on the ballot;

5-61 (2) the most recently scheduled district directors'
 5-62 election was not held, as provided by Section 2.053(b), Election
 5-63 Code; or

5-64 (3) fewer than 250 voters voted at the most recently
 5-65 held district directors' election.

5-66 (b) A district eligible for the exemption under Subsection
 5-67 (a) must publish notice in a newspaper of general circulation in an
 5-68 area that includes the district or mail notice to each voter in the
 5-69 district regarding the district's intention to hold an election

6-1 without providing a voting station that meets the requirements for
 6-2 accessibility under 42 U.S.C. Section 15481(a)(3) on election day
 6-3 and during the period for early voting by personal appearance. The
 6-4 notice must be published or mailed not later than the later of:

6-5 (1) the 75th day before the date of the election; or
 6-6 (2) the date on which the district adopts the order
 6-7 calling the election.

6-8 (c) The notice required by Subsection (b) must:

6-9 (1) provide that any voter in the district may request
 6-10 the use of a voting station that meets the accessibility
 6-11 requirements for voting by a person with a disability; and

6-12 (2) provide information on how to submit such a
 6-13 request.

6-14 (d) The district shall comply with a request for an
 6-15 accessible voting station if the request is received not later than
 6-16 the 45th day before the date of the election.

6-17 Sec. 49.112. CANCELLATION OF ELECTION; REMOVAL OF BALLOT
 6-18 MEASURE. Before the first day of early voting by personal
 6-19 appearance, the board by order or resolution may cancel an election
 6-20 called at the discretion of the district or may remove from the
 6-21 ballot a measure included at the discretion of the district. A copy
 6-22 of the order or resolution must be posted during the period for
 6-23 early voting by personal appearance and on election day at each
 6-24 polling place that is used or that would have been used in the
 6-25 election.

6-26 Sec. 49.113. NOTICE FOR FILING FOR PLACE ON BALLOT. A
 6-27 notice required by Section 141.040, Election Code, must be posted
 6-28 at the district's administrative office in the district or at the
 6-29 public place established by the district under Section 49.063 of
 6-30 this chapter not later than the 30th day before the deadline for a
 6-31 candidate to file an application for a place on the ballot of a
 6-32 district directors' election.

6-33 SECTION 12. Subsection (c), Section 49.151, Water Code, is
 6-34 amended to read as follows:

6-35 (c) The board may allow disbursements of district money to
 6-36 be transferred by federal reserve wire system or by electronic
 6-37 means. The board by resolution may allow the wire or electronic
 6-38 transfers to accounts in the name of the district or accounts not in
 6-39 the name of the district.

6-40 SECTION 13. Sections (a) and (c), Section 49.154, Water
 6-41 Code, are amended to read as follows:

6-42 (a) The board may declare an emergency in the matter of
 6-43 funds not being available to pay principal of and interest on any
 6-44 bonds of the district payable in whole or in part from taxes or to
 6-45 meet any other needs of the district and may issue [~~negotiable~~] tax
 6-46 anticipation notes or [~~negotiable~~] bond anticipation notes to
 6-47 borrow the money needed by the district without advertising or
 6-48 giving notice of the sale. A district's bond anticipation notes or
 6-49 tax anticipation notes are negotiable instruments within the
 6-50 meaning and purposes of the Business & Commerce Code
 6-51 notwithstanding any provision to the contrary in that code. Bond
 6-52 anticipation notes and tax anticipation notes shall mature within
 6-53 one year of their date.

6-54 (c) Bond anticipation notes may be issued for any purpose
 6-55 for which bonds of the district may be issued [~~have previously been~~
 6-56 voted] or [~~may be issued~~] for the purpose of refunding previously
 6-57 issued bond anticipation notes. A district may covenant with the
 6-58 purchasers of the bond anticipation notes that the district will
 6-59 use the proceeds of sale of any bonds in the process of issuance for
 6-60 the purpose of refunding the bond anticipation notes, in which case
 6-61 the board will be required to use the proceeds received from sale of
 6-62 the bonds in the process of issuance to pay principal, interest, or
 6-63 redemption price on the bond anticipation notes.

6-64 SECTION 14. Subsection (a), Section 49.181, Water Code, is
 6-65 amended to read as follows:

6-66 (a) A district may not issue bonds to finance a project for
 6-67 which the commission has adopted rules requiring review and
 6-68 approval unless the commission determines that the project [~~to be~~
 6-69 financed by the bonds] is feasible and issues an order approving the

7-1 issuance of the bonds. This section does not apply to:

7-2 (1) refunding bonds if the commission issued an order
7-3 approving the issuance of the bonds or notes that originally
7-4 financed the project;

7-5 (2) refunding bonds that are issued by a district
7-6 under an agreement between the district and a municipality allowing
7-7 the issuance of the district's bonds to refund bonds issued by the
7-8 municipality to pay the cost of financing facilities;

7-9 (3) bonds issued to and approved by the Farmers Home
7-10 Administration, the United States Department of Agriculture, the
7-11 North American Development Bank, or the Texas Water Development
7-12 Board;

7-13 (4) refunding bonds issued to refund bonds described
7-14 by Subdivision (3); or

7-15 (5) bonds issued by a public utility agency created
7-16 under Chapter 572, Local Government Code, any of the public
7-17 entities participating in which are districts if at least one of
7-18 those districts is a district described by Subsection (h)(1)(E).

7-19 SECTION 15. Section 49.194, Water Code, is amended by
7-20 amending Subsections (a), (b), and (c) and adding Subsection (h) to
7-21 read as follows:

7-22 (a) Except as provided by Subsection (h), after [After] the
7-23 board has approved the audit report, it shall submit a copy of the
7-24 report to the executive director for filing within 135 days after
7-25 the close of the district's fiscal year.

7-26 (b) Except as provided by Subsection (h), if [If] the board
7-27 refuses to approve the annual audit report, the board shall submit a
7-28 copy of the report to the executive director for filing within 135
7-29 days after the close of the district's fiscal year, accompanied by a
7-30 statement from the board explaining the reasons for its failure to
7-31 approve the report.

7-32 (c) Copies of the audit report, the annual financial
7-33 dormancy affidavit, or annual financial report described in
7-34 Sections 49.197 and 49.198 shall be filed annually in the office of
7-35 the district.

7-36 (h) A special water authority shall submit a copy of the
7-37 audit report to the executive director for filing not later than the
7-38 160th day after the date the special water authority's fiscal year
7-39 ends.

7-40 SECTION 16. Section 49.212, Water Code, is amended by
7-41 amending Subsection (d) and adding Subsections (d-1) and (d-2) to
7-42 read as follows:

7-43 (d) Notwithstanding any provision of law to the contrary, a
7-44 district that charges a fee that is an impact fee as described in
7-45 Section 395.001(4), Local Government Code, must comply with Chapter
7-46 395, Local Government Code. A charge or fee is not an impact fee
7-47 under that chapter if:

7-48 (1) the charge or fee is imposed by a district for
7-49 construction, installation, or inspection of a tap or connection to
7-50 district water, sanitary sewer, or drainage facilities, including
7-51 all necessary service lines and meters, for capacity in storm water
7-52 detention or retention facilities and related storm water
7-53 conveyances, or for wholesale facilities that serve such water,
7-54 sanitary sewer, [or] drainage, or storm water detention or
7-55 retention facilities; and

7-56 (2) the charge or fee:

7-57 (A) [that (i)] does not exceed three times the
7-58 actual [and reasonable] costs to the district for such tap or
7-59 connection;

7-60 (B) [, (ii)] if made to a nontaxable entity for
7-61 retail or wholesale service, does not exceed the actual costs to the
7-62 district for such work and for all facilities that are necessary to
7-63 provide district services to such entity and that are financed or
7-64 are to be financed in whole or in part by tax-supported or revenue
7-65 bonds of the district; [or]

7-66 (C) is [(iii) if] made by a district for retail or
7-67 wholesale service on land that at the time of platting was not being
7-68 provided with water, [or] wastewater, drainage, or storm water
7-69 detention or retention service by the district [shall not be

8-1 ~~deemed to be an impact fee under Chapter 395, Local Government~~
8-2 ~~Code].~~

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

8-10 (d-2) A district may pledge the revenues of the district's
8-11 utility system to pay the principal of or interest on bonds issued
8-12 to construct the capital improvements for which a charge or fee is
8-13 [was] imposed under Subsection (d) [this subsection], and money
8-14 received from the fees shall be considered revenues of the
8-15 district's utility system for purposes of the district's bond
8-16 covenants.

8-17 SECTION 17. Subsection (b), Section 49.2121, Water Code, is
8-18 amended to read as follows:

8-19 (b) A district may:

8-20 (1) accept a credit card for the payment of any fees
8-21 and charges imposed by the district;

8-22 (2) collect a fee~~[, not to exceed five percent of the~~
8-23 ~~amount of the fee or charge being paid,]~~ that is reasonably related
8-24 to the expense incurred by the district in processing the payment by
8-25 credit card; and

8-26 (3) collect a service charge for the expense incurred
8-27 by the district in collecting the original fee or charge if the
8-28 payment by credit card is not honored by the credit card company on
8-29 which the funds are drawn.

8-30 SECTION 18. Section 49.216, Water Code, is amended by
8-31 amending Subsection (e) and adding Subsection (f) to read as
8-32 follows:

8-33 (e) Any peace officer who is directly employed by a
8-34 district, before beginning to perform any duties and at the time of
8-35 appointment, must take an oath and execute a bond conditioned on
8-36 faithful performance of such officer's duties in the amount of
8-37 \$1,000 payable to the district. The oath and the bond shall be
8-38 filed in the district office.

8-39 (f) A peace officer contracted for by the district,
8-40 individually or through a county, sheriff, constable, or
8-41 municipality, is an independent contractor, and the district is
8-42 responsible for the acts or omissions of the peace officer only to
8-43 the extent provided by law for other independent contractors.

8-44 SECTION 19. Subsections (d) and (e), Section 49.273, Water
8-45 Code, are amended to read as follows:

8-46 (d) For contracts over \$75,000 ~~[\$50,000]~~, the board shall
8-47 advertise the letting of the contract, including the general
8-48 conditions, time, and place of opening of sealed bids. The notice
8-49 must ~~[shall]~~ be published in one or more newspapers circulated in
8-50 each county in which ~~[part of]~~ the district is located. ~~[If one~~
8-51 ~~newspaper meets both of these requirements, publication in such~~
8-52 ~~newspaper is sufficient.]~~ If there are more than four counties in
8-53 the district, notice may be published in any newspaper with general
8-54 circulation in the district. The notice must ~~[shall]~~ be published
8-55 once a week for two consecutive weeks before the date that the bids
8-56 are opened, and the first publication must ~~[shall]~~ be not later than
8-57 the 14th ~~[21st]~~ day before the date of the opening of the sealed
8-58 bids.

8-59 (e) For contracts over \$25,000 but not more than \$75,000
8-60 ~~[\$50,000]~~, the board shall solicit written competitive bids on
8-61 uniform written specifications from at least three bidders.

8-62 SECTION 20. Section 49.351, Water Code, is amended by
8-63 amending Subsections (a), (b), (c), (f), (i), and (l) and adding
8-64 Subsection (m) to read as follows:

8-65 (a) A district providing potable water or sewer service to
8-66 household users may, separately or jointly with another district,
8-67 municipality, or other political subdivision, establish, operate,
8-68 and maintain, finance with ad valorem taxes, mandatory fees, or
8-69 voluntary contributions, and issue bonds for a fire department to

9-1 perform all fire-fighting services within the district as provided
 9-2 in this subchapter and may provide for ~~[issue bonds or impose a~~
 9-3 ~~mandatory fee, with voter approval, for financing a plan approved~~
 9-4 ~~in accordance with this section, including]~~ the construction and
 9-5 purchase of necessary buildings, facilities, land, and equipment
 9-6 and the provision of an adequate water supply.

9-7 (b) After complying with the requirements of this section
 9-8 ~~[approval of the district electors of a plan to operate, jointly~~
 9-9 ~~operate, or jointly fund the operation of a fire department, and~~
 9-10 ~~after complying with Subsections (g), (h), and (i)]~~, the district
 9-11 or districts shall provide an adequate system and water supply for
 9-12 fire-fighting purposes, may purchase necessary land, may construct
 9-13 and purchase necessary buildings, facilities, and equipment, and
 9-14 may employ or contract with a fire department to employ all
 9-15 necessary personnel including supervisory personnel to operate the
 9-16 fire department.

9-17 (c) For ~~[Bonds for]~~ financing a plan approved in accordance
 9-18 with this section, bonds and ad valorem taxes must ~~[shall]~~ be
 9-19 authorized and may be issued or imposed ~~[, and a district shall be~~
 9-20 ~~authorized to levy a tax to pay the principal of and interest on~~
 9-21 ~~such bonds,]~~ as provided by law for the authorization and issuance
 9-22 of other bonds and the authorization and imposition of other ad
 9-23 valorem taxes of the district.

9-24 (f) Before a district imposes an ad valorem tax or issues
 9-25 bonds payable wholly or partly from ad valorem taxes to finance the
 9-26 establishment of ~~[establishes]~~ a fire department, contracts to
 9-27 operate a joint fire department, or contracts with another person
 9-28 to perform fire-fighting services within the district, the district
 9-29 must comply with ~~[the provisions of]~~ Subsections (g), (h), and (i).

9-30 (i) After approval of a plan by the commission, the district
 9-31 shall hold an ~~[submit to the electors of the district at the]~~
 9-32 election to approve the plan, approve bonds payable wholly or
 9-33 partly from ad valorem taxes, and ~~[or to]~~ impose ad valorem taxes ~~[a~~
 9-34 ~~mandatory fee]~~ for financing the plan. The election ~~[, or if no~~
 9-35 ~~bonds or fees are to be approved, at an election called for approval~~
 9-36 ~~of the plan, which]~~ may be held in conjunction with an election
 9-37 required by Section 49.102 ~~[, the proposition of whether or not the~~
 9-38 ~~plan should be implemented or entered into by the district]~~. ~~[The~~
 9-39 ~~ballots at the election shall be printed, as applicable, to provide~~
 9-40 ~~for voting for or against the proposition: "The implementation of~~
 9-41 ~~the plan for (operation/joint operation) of a fire department", or~~
 9-42 ~~"The plan and contract to provide fire-fighting services for the~~
 9-43 ~~district."]~~

9-44 (l) A ~~[Notwithstanding the requirements of Subsections~~
 9-45 ~~(a)-(j), a]~~ district providing potable water or sewer service to
 9-46 household users may, as part of its billing process, collect from
 9-47 its customers a voluntary contribution on behalf of organizations
 9-48 providing fire-fighting services to the district. A district that
 9-49 chooses to collect a voluntary contribution under this subsection
 9-50 must give reasonable notice to its customers that the contribution
 9-51 is voluntary. Water and sewer service may not be terminated as a
 9-52 result of failure to pay the voluntary contribution.

9-53 (m) If a customer makes a partial payment of a district bill
 9-54 for water or sewer service and includes with the payment a voluntary
 9-55 contribution for fire-fighting services under Subsection (l), the
 9-56 district shall apply the voluntary contribution first to the bill
 9-57 for water or sewer service, including any interest or penalties
 9-58 imposed. The district shall use any amount remaining for
 9-59 fire-fighting services.

9-60 SECTION 21. Subdivision (1), Section 49.462, Water Code, is
 9-61 amended to read as follows:

9-62 (1) "Recreational facilities" means parks,
 9-63 landscaping, parkways, greenbelts, sidewalks, trails, public
 9-64 right-of-way beautification projects, and recreational equipment
 9-65 and facilities. The term includes associated street and security
 9-66 lighting. The term does not include a minor improvement or
 9-67 beautification project to land acquired or to be acquired as part of
 9-68 a district's water, sewer, or drainage facilities.

9-69 SECTION 22. Subchapter N, Chapter 49, Water Code, is

10-1 amended by adding Section 49.4641 to read as follows:

10-2 Sec. 49.4641. RECREATIONAL FACILITIES ON SITES ACQUIRED FOR
 10-3 WATER, SEWER, OR DRAINAGE FACILITIES. (a) A district may develop
 10-4 and maintain recreational facilities on a site acquired for the
 10-5 purpose of developing water, sewer, or drainage facilities.

10-6 (b) A district is not required to prorate the costs of a site
 10-7 described by Subsection (a) between the primary water, sewer, or
 10-8 drainage purpose and any secondary recreational facilities purpose
 10-9 if a licensed professional engineer certifies that the site is
 10-10 reasonably sized for the intended water, sewer, or drainage
 10-11 purpose.

10-12 (c) The engineer may consider the following factors in
 10-13 determining the reasonableness of the size of a water, sewer, or
 10-14 drainage site:

10-15 (1) the rules, regulations, and design guidelines or
 10-16 criteria of a municipality, county, or other entity exercising
 10-17 jurisdiction;

10-18 (2) sound engineering principles;

10-19 (3) the impact on adjoining property;

10-20 (4) the availability of sites that meet the
 10-21 requirements for the proposed use;

10-22 (5) requirements for sanitary control;

10-23 (6) the need for a buffer zone to mitigate noise or for
 10-24 aesthetic purposes;

10-25 (7) benefits to storm water quality; and

10-26 (8) anticipated expansions of facilities resulting
 10-27 from:

10-28 (A) future growth and demand for district
 10-29 facilities; or

10-30 (B) changes in regulatory requirements.

10-31 SECTION 23. Subsections (a) and (b), Section 49.4645, Water
 10-32 Code, are amended to read as follows:

10-33 (a) A district all or part of which is located in Bastrop
 10-34 County, Bexar County, Waller County, Travis County, Williamson
 10-35 County, Harris County, Galveston County, Brazoria County,
 10-36 Montgomery County, or Fort Bend County may issue bonds supported by
 10-37 ad valorem taxes to pay for the development and maintenance of
 10-38 recreational facilities only if the bonds are authorized by a
 10-39 majority vote of the ~~[qualified]~~ voters of the district voting in an
 10-40 election held for that purpose. The outstanding principal amount
 10-41 of bonds, notes, and other obligations issued to finance parks and
 10-42 recreational facilities supported by ad valorem taxes ~~[payable from~~
 10-43 ~~any source]~~ may not exceed an amount equal to one percent of the
 10-44 value of the taxable property in the district or, if supported by
 10-45 contract taxes under Section 49.108, may not exceed an amount equal
 10-46 to one percent of the value of the taxable property in the districts
 10-47 making payments under the contract as shown by the tax rolls of the
 10-48 central appraisal district at the time of the issuance of the bonds,
 10-49 notes, and other obligations or an amount greater than the
 10-50 estimated cost provided in the park plan under Subsection (b),
 10-51 whichever is smaller. To establish the value of the taxable
 10-52 property in a district under this section, the district may use an
 10-53 estimate of the value provided by the central appraisal district.
 10-54 The district may not issue bonds supported by ad valorem taxes to
 10-55 pay for the development and maintenance of:

10-56 (1) indoor or outdoor swimming pools; or

10-57 (2) golf courses.

10-58 (b) On or before the 10th day before the first day for early
 10-59 voting by personal appearance at [Not later than the 10th day
 10-60 before] an election [is] held to authorize the issuance of bonds for
 10-61 the development and maintenance of recreational facilities, the
 10-62 board shall file in the district office for review by the public a
 10-63 park plan covering the land, improvements, facilities, and
 10-64 equipment to be purchased or constructed and their estimated cost,
 10-65 together with maps, plats, drawings, and data fully showing and
 10-66 explaining the park plan. The park plan is not part of the
 10-67 proposition to be voted on, [and the park plan] does not create a
 10-68 contract with the voters, and may be amended at any time after the
 10-69 election held to authorize the issuance of bonds for the

11-1 development and maintenance of recreational facilities provided
 11-2 under the plan. The estimated cost stated in the amended park plan
 11-3 may not exceed the amount of bonds authorized at that election.

11-4 SECTION 24. Section 51.072, Water Code, is amended to read
 11-5 as follows:

11-6 Sec. 51.072. QUALIFICATIONS FOR DIRECTOR. (a) To be
 11-7 qualified for election as a director, a person must:

11-8 (1) be a resident of the state;

11-9 (2) ~~own~~ own land subject to taxation in the district or
 11-10 be a qualified voter in the district; ~~and~~

11-11 (3) be at least 18 years of age.

11-12 (b) Section 49.052 does not apply to a district governed by
 11-13 this chapter whose principal purpose is providing water for
 11-14 irrigation.

11-15 SECTION 25. Section 51.335, Water Code, is amended by
 11-16 amending Subsection (b) and adding Subsection (c) to read as
 11-17 follows:

11-18 (b) The district shall not usurp functions or duplicate a
 11-19 service already adequately exercised or rendered by the other
 11-20 governmental agency except:

11-21 (1) under a valid contract with the other governmental
 11-22 agency; or

11-23 (2) as provided by Subsection (c).

11-24 (c) The district may finance, develop, and maintain
 11-25 recreational facilities under Subchapter N, Chapter 49, even if
 11-26 similar facilities may be provided by a political subdivision or
 11-27 other governmental entity included wholly or partly in the
 11-28 district.

11-29 SECTION 26. Section 51.523, Water Code, is amended to read
 11-30 as follows:

11-31 Sec. 51.523. BALLOTS. The ballot for an election under this
 11-32 subchapter shall be printed to provide for voting for or against
 11-33 substantially the proposition: "Designation of the area, issuance
 11-34 of bonds, ~~and~~ levy of a tax to retire the bonds, and levy of a
 11-35 maintenance tax."

11-36 SECTION 27. Section 51.527, Water Code, is amended by
 11-37 adding Subsection (c) to read as follows:

11-38 (c) After bonds issued for the defined area or designated
 11-39 property are fully paid or defeased, the board may declare the
 11-40 defined area dissolved or may repeal the designation of the
 11-41 designated property. After that declaration or repeal, the board
 11-42 shall cease imposing any special taxes authorized under the adopted
 11-43 tax plan on the property located in the defined area or on the
 11-44 designated property.

11-45 SECTION 28. Subsection (f), Section 54.016, Water Code, is
 11-46 amended to read as follows:

11-47 (f) A city may provide in its written consent for the
 11-48 inclusion of land in a district that is initially located wholly or
 11-49 partly outside the corporate limits of the city that a contract
 11-50 ("allocation agreement") between the district and the city be
 11-51 entered into prior to the first issue of bonds, notes, warrants, or
 11-52 other obligations of the district. The allocation agreement shall
 11-53 contain the following provisions:

11-54 (1) a method by which the district shall continue to
 11-55 exist following the annexation of all territory within the district
 11-56 by the city, if the district is initially located outside the
 11-57 corporate limits of the city;

11-58 (2) an allocation of the taxes or revenues of the
 11-59 district or the city which will assure that, following the date of
 11-60 the inclusion of all the district's territory within the corporate
 11-61 limits of the city, the total annual ad valorem taxes collected by
 11-62 the city and the district from taxable property within the district
 11-63 does not exceed an amount greater than the city's ad valorem tax
 11-64 upon such property;

11-65 (3) an allocation of governmental services to be
 11-66 provided by the city or the district following the date of the
 11-67 inclusion of all of the district's territory within the corporate
 11-68 limits of the city; and

11-69 (4) such other terms and conditions as may be deemed

12-1 appropriate by the city.

12-2 SECTION 29. Section 54.236, Water Code, is amended to read
12-3 as follows:

12-4 Sec. 54.236. STREET OR SECURITY LIGHTING. (a) Subject to
12-5 the provisions of this section, a district may purchase, install,
12-6 operate, and maintain street lighting or security lighting within
12-7 public utility easements or public rights-of-way or property owned
12-8 by [within the boundaries of] the district.

12-9 (b) A district may not issue bonds supported by ad valorem
12-10 taxes to pay for the purchase, installation, and maintenance of
12-11 street or security lighting, except as authorized by Section 54.234
12-12 or Subchapter N, Chapter 49.

12-13 SECTION 30. Section 54.739, Water Code, is amended to read
12-14 as follows:

12-15 Sec. 54.739. SUBSTITUTING LAND OF EQUAL VALUE. After the
12-16 district is organized and has obtained voter approval for the
12-17 issuance of, or has sold, bonds payable wholly or partly from ad
12-18 valorem taxes [acquires facilities with which to function for the
12-19 purposes for which it was organized, and votes, issues and sells
12-20 bonds for such purposes], land within the district boundaries
12-21 subject to taxation that does not need or utilize the services of
12-22 the district may be excluded and other land not within the
12-23 boundaries of the district may be included within the boundaries of
12-24 the district without impairment of the security for payment of the
12-25 bonds or invalidation of any prior bond election, as provided by
12-26 this section and Sections 54.740 through 54.747.

12-27 SECTION 31. Section 54.744, Water Code, is amended to read
12-28 as follows:

12-29 Sec. 54.744. IMPAIRMENT OF SECURITY. (a) For purposes of
12-30 the board's consideration of the applications, the lands proposed
12-31 for inclusion shall be deemed to be sufficient to avoid an
12-32 impairment of the security for payment of obligations of the
12-33 district if:

12-34 (1) according to the most recent tax roll of the
12-35 district or the most recently certified estimates of taxable value
12-36 from the chief appraiser of the appropriate appraisal district, the
12-37 taxable value of such included lands equals or exceeds the taxable
12-38 value of the excluded lands; and

12-39 (2) either the estimated costs of providing district
12-40 facilities and services to such included lands is equal to or less
12-41 than the estimated costs of providing district facilities and
12-42 services to the excluded lands or any increased estimated costs of
12-43 providing district facilities and services to the included land, as
12-44 determined by the district's engineer, can be amortized at
12-45 prevailing bond interest rates and maturity schedules and the
12-46 prevailing debt service tax rate of the district, as determined by
12-47 the district's professional financial advisor, when applied to the
12-48 increase in taxable value of the included land over the taxable
12-49 value of the excluded land.

12-50 (b) If the district has any[, and (3) the district's]
12-51 outstanding bonds or contract obligations [are] payable in whole or
12-52 in part by a pledge of net revenues from the ownership or operation
12-53 of the district's facilities at the time the board considers an
12-54 application, the lands proposed for inclusion shall be deemed to be
12-55 sufficient to avoid an impairment of the security for payment of
12-56 obligations of the district if[, and] the projected net revenues to
12-57 be derived from the lands to be included during the succeeding
12-58 12-month period, as determined by the district's engineer, equals
12-59 or exceeds the projected net revenues that would otherwise have
12-60 been derived from the lands to be excluded during the same period.

12-61 (c) In this section, the taxable value of included land
12-62 means the market value of the land if, before or contemporaneously
12-63 with the inclusion of the land in the district, the owner of the
12-64 land waives the right to special appraisal of the land as to the
12-65 district under Section 23.20, Tax Code.

12-66 SECTION 32. Subsection (g), Section 49.103, Water Code, is
12-67 repealed.

12-68 SECTION 33. The legislature finds that an agreement entered
12-69 into before September 1, 2013, by a municipality and a municipal

13-1 utility district is an allocation agreement only if:

13-2 (1) the district is initially located wholly or partly
13-3 outside the corporate limits of the municipality;

13-4 (2) the agreement strictly complies with the
13-5 requirements of Subsection (f), Section 54.016, Water Code, as that
13-6 section existed immediately before the effective date of this Act;
13-7 and

13-8 (3) the agreement is specifically designated by the
13-9 parties to the agreement as an "allocation agreement" under
13-10 Subsection (f), Section 54.016, Water Code.

13-11 SECTION 34. Not later than December 1, 2014, the Texas
13-12 Commission on Environmental Quality shall adopt any rules or
13-13 amendments to existing rules necessary to implement Section
13-14 49.4641, Water Code, as added by this Act.

13-15 SECTION 35. (a) Except as provided by Subsection (b) of
13-16 this section, this Act takes effect September 1, 2013.

13-17 (b) Sections 54.739 and 54.744, Water Code, as amended by
13-18 this Act, take effect immediately if this Act receives a vote of
13-19 two-thirds of all the members elected to each house, as provided by
13-20 Section 39, Article III, Texas Constitution; otherwise, those
13-21 sections take effect September 1, 2013.

13-22

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