

BILL ANALYSIS

Senate Research Center
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S.B. 1051
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Agriculture, Water & Rural Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The North Fort Bend Water Authority (the “authority”) was created by S.B. 1798, (Armbrister; Sp: Hegar), 79th Legislature, Regular Session, 2005. The authority includes approximately 69 water districts (MUDs) and the City of Fulshear and a small portion of the City of Katy.

The authority is governed by a seven-member board of directors, selected by the elected governing bodies of the water districts and cities within its boundaries. The authority has no taxing authority. All water infrastructure is paid for by sales of surface water and groundwater pumpage fees. The authority was created to achieve compliance with Fort Bend Subsidence District regulations to reduce groundwater pumpage. The authority established a Ground Water Reduction Plan to convert from groundwater to surface water. The authority constructs major infrastructure to deliver surface water to users within its boundaries so that the users will be in compliance with subsidence district regulations. There are approximately 30 water districts receiving surface water from the authority and the authority delivers up to 19.5 million gallons of water per day. In order to provide the additional surface water required to meet subsidence district surface water conversion requirements by 2025, the authority is involved in several water infrastructure projects.

The authority successfully obtained \$42 million in low-interest Texas Water Development Board (TWDB) funding in 2012 for its Second Source transmission line. The authority has applied for additional low-interest TWDB funding for the Second Source transmission line, the expansion of the City of Houston’s Northeast Water Purification Plant, and distribution lines to additional water districts within the authority’s boundaries.

In S.B. 1051, the authority proposes to make “cash calls” optional instead of required. This would permit the authority to fund its water infrastructure capital costs without the requirement to first undertake a lengthy capital advance process by which governmental retail water providers within its boundaries may consider funding a portion of the costs through capital advances. This change will allow the authority to utilize the capital advance process on an as-needed basis, rather than for each and every water project. This change is important in order for the authority to comply with the funding schedule related to State Water Implementation Fund for Texas (SWIFT) funding from the TWDB. The “cash call” process and procedures are explicit in the legislation and they are time consuming. The authority is required to go through a paperwork process with no added value.

S.B. 1051 also clarifies that land may not be added to the authority’s boundaries if that land is already within the boundaries of another regional water authority.

The bill also clarifies that the authority is not a special water authority, as defined by Chapter 49 of the Water Code. Special water authorities are given certain special rights and authorities as compared to other water districts. The authority does not need to avail itself of these special rights and wants to be subject to the same Water Code provisions of the MUDs it serves.

As proposed, S.B. 1051 amends current law relating to the powers and duties of the North Fort Bend Water Authority.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8813.006, Special District Local Laws Code, by adding Subsection (g), as follows:

(g) Provides that, notwithstanding any provision of this section or other law, no territory may be annexed into or added to the North Fort Bend Water Authority (authority) that, at the time of annexation or addition, is located within the boundaries of both:

(1) another regional water authority created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution; and

(2) a subsidence district.

SECTION 2. Amends Section 8813.101, Special District Local Laws Code, by adding Subsection (e), to provide that the authority is not a special water authority for purposes of Chapter 49 (Provisions Applicable to All Districts), Water Code.

SECTION 3. Amends Section 8813.104(b), Special District Local Laws Code, to authorize, rather than require, the authority to provide each district or municipality within its boundaries information regarding the share of the capital costs to be paid by the district or municipality, as determined by the authority, and to authorize, rather than require, the authority to provide each district or municipality the opportunity, in a manner and by a procedure determined by the authority, to fund its share of the capital costs with proceeds from the sale of bonds or fees and charges collected by the districts or municipalities.

SECTION 4. Provides that except as provided by this Act, the authority retains all the rights, powers, privileges, authority, duties, and functions that it had before the effective date of this Act.

SECTION 5. (a) Provides that the legislature validates and confirms all acts and proceedings of the board of directors of the authority that were taken before the effective date of this Act.

(b) Provides that Subsection (a) of this section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

SECTION 6. Provides that Section 8813.006(g), Special District Local Laws Code, as added by this Act, applies only to an annexation or addition of land that is completed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2015.