

By: Lucio III

H.B. No. 1228

A BILL TO BE ENTITLED

AN ACT

relating to municipal public securities to provide for or loan or grant public money for the provision of water conservation infrastructure; providing a criminal penalty.

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

SECTION 1. The heading to Chapter 1502, Government Code, is amended to read as follows:

CHAPTER 1502. PUBLIC SECURITIES FOR MUNICIPAL UTILITIES, PARKS, ~~OR~~ POOLS, OR WATER CONSERVATION INFRASTRUCTURE

SECTION 2. Section 1502.001, Government Code, is amended by adding Subdivision (4) to read as follows:

(4) "Water conservation infrastructure" means property, interests in property, buildings, structures, activities, services, operations, or other facilities owned by a municipality or any person contracting with a municipality that is found by the governing body of the municipality to conserve, preserve, or treat water, wastewater, stormwater, or other water resources of the municipality.

SECTION 3. The heading to Section 1502.002, Government Code, is amended to read as follows:

Sec. 1502.002. GENERAL AUTHORITY FOR UTILITY SYSTEMS, PARKS, ~~AND~~ POOLS, AND WATER CONSERVATION INFRASTRUCTURE.

SECTION 4. Section 1502.002(a), Government Code, is amended to read as follows:

1 (a) A municipality may acquire, purchase, construct,
2 improve, enlarge, equip, operate, or maintain any property,
3 including channels or bodies of water known as resacas, interests
4 in property, buildings, structures, activities, services,
5 operations, or other facilities, with respect to:

- 6 (1) a utility system;
- 7 (2) a park; ~~or~~
- 8 (3) a swimming pool; or
- 9 (4) water conservation infrastructure.

10 SECTION 5. Subchapter A, Chapter 1502, Government Code, is
11 amended by adding Sections 1502.005 and 1502.006 to read as
12 follows:

13 Sec. 1502.005. DECLARATION OF PUBLIC PURPOSE. Under
14 Section 52-a, Article III, Texas Constitution, a municipality may
15 undertake to provide or provide funding for water conservation
16 infrastructure in accordance with this chapter that the
17 municipality determines to be:

- 18 (1) in furtherance of the development and
19 diversification of the economy of the municipality;
- 20 (2) in furtherance of the conservation, preservation,
21 or treatment of water resources of the municipality; and
- 22 (3) beneficial to the operation of its utility system.

23 Sec. 1502.006. ADDITIONAL POWERS RELATED TO PROVISION OF
24 WATER CONSERVATION INFRASTRUCTURE. A municipality may exercise any
25 power granted to the municipality by Chapter 380, Local Government
26 Code, in providing or providing funding for water conservation
27 infrastructure under this chapter.

1 SECTION 6. The heading to Subchapter B, Chapter 1502,
2 Government Code, is amended to read as follows:

3 SUBCHAPTER B. PUBLIC SECURITIES FOR UTILITY SYSTEMS, PARKS, [~~OR~~]
4 POOLS, OR WATER CONSERVATION INFRASTRUCTURE

5 SECTION 7. Section 1502.051(a), Government Code, is amended
6 to read as follows:

7 (a) The governing body of a municipality may provide funds
8 to acquire, purchase, construct, improve, renovate, enlarge, or
9 equip property, buildings, structures, facilities, or related
10 infrastructure for:

- 11 (1) a utility system;
- 12 (2) a park; [~~or~~]
- 13 (3) a swimming pool; or
- 14 (4) water conservation infrastructure.

15 SECTION 8. Section 1502.052(a), Government Code, is amended
16 to read as follows:

17 (a) The governing body of a municipality may pledge to the
18 payment of any public securities issued or any obligations incurred
19 under Section 1502.051(c) all or any part of the revenue of:

- 20 (1) a utility system;
- 21 (2) a park; [~~or~~]
- 22 (3) a swimming pool; or
- 23 (4) water conservation infrastructure.

24 SECTION 9. Section 1502.053, Government Code, is amended to
25 read as follows:

26 Sec. 1502.053. GRANT OF FRANCHISE. As additional security
27 for public securities issued or obligations incurred under this

1 chapter, the municipality by the terms of the encumbrance may grant
2 a purchaser under sale or foreclosure a franchise to operate the
3 encumbered utility system, park, [~~or~~] pool, or water conservation
4 infrastructure for a term not to exceed 20 years from the date of
5 purchase, subject to all laws regulating the operation of the
6 utility system, park, [~~or~~] pool, or water conservation
7 infrastructure in force at the time of the sale or foreclosure.

8 SECTION 10. Section 1502.054(a), Government Code, is
9 amended to read as follows:

10 (a) A public security issued or an obligation incurred under
11 this chapter:

12 (1) is not a debt of the municipality;

13 (2) may be a charge only on the encumbered utility
14 system, park, [~~or~~] pool, or water conservation infrastructure; and

15 (3) may not be included in determining the
16 municipality's power to issue public securities for any purpose
17 authorized by law.

18 SECTION 11. Section 1502.055(a), Government Code, is
19 amended to read as follows:

20 (a) Unless authorized by a majority vote of the qualified
21 voters of the municipality, a municipality may not sell a utility
22 system, park, [~~or~~] pool, or municipally owned water conservation
23 infrastructure.

24 SECTION 12. Section 1502.056(a), Government Code, is
25 amended to read as follows:

26 (a) If the revenue of a utility system, park, [~~or~~] swimming
27 pool, or water conservation infrastructure secures the payment of

1 public securities issued or obligations incurred under this
2 chapter, each expense of operation and maintenance, including all
3 salaries, labor, materials, interest, repairs and extensions
4 necessary to provide efficient service, and each proper item of
5 expense, is a first lien against that revenue. For a municipality
6 with a population of more than one million but less than two
7 million, the first lien against the revenue of a municipally owned
8 utility system that secures the payment of public securities issued
9 or obligations incurred under this chapter also applies to funding,
10 as a necessary operations expense, for a bill payment assistance
11 program for utility system customers who:

12 (1) have been threatened with disconnection from
13 service for nonpayment of bills and who have been determined by the
14 municipality to be low-income customers; or

15 (2) are military veterans who have significantly
16 decreased abilities to regulate their bodies' core temperatures
17 because of severe burns received in combat.

18 SECTION 13. Sections 1502.058(a) and (c), Government Code,
19 are amended to read as follows:

20 (a) Except as provided by Subsection (b) or (c), by Section
21 1502.059, or by Section 271.052, Local Government Code, a
22 municipality may not use the revenue of a utility system, park, ~~or~~
23 swimming pool, or water conservation infrastructure to pay any
24 other debt, expense, or obligation of the municipality until the
25 debt secured by the revenue is finally paid.

26 (c) This section does not apply to a payment made from
27 surplus revenue of a utility system, park, ~~or~~ swimming pool, or

1 water conservation infrastructure, as provided by the proceedings
2 authorizing the issuance of public securities under this chapter.

3 SECTION 14. Section 1502.060(a), Government Code, is
4 amended to read as follows:

5 (a) To the extent provided by the proceedings authorizing
6 the issuance of the public securities issued under this chapter, a
7 municipality may:

8 (1) use proceeds from the sale of public securities
9 issued to provide funds for a utility system under this chapter for
10 any purpose authorized by Section 1502.051(a)(1) or (b);

11 (2) use proceeds from the sale of public securities
12 issued to provide funds for a park under this chapter for any
13 purpose authorized by Section 1502.051(a)(2); ~~or~~

14 (3) use proceeds from the sale of public securities to
15 provide funds for a swimming pool under this chapter for any purpose
16 authorized by Section 1502.051(a)(3); or

17 (4) use proceeds from the sale of public securities
18 issued to provide funds for water conservation infrastructure under
19 this chapter for any purpose authorized by Section 1502.006 or
20 1502.051(a)(4).

21 SECTION 15. Section 1502.066, Government Code, is amended
22 to read as follows:

23 Sec. 1502.066. RECORDS. The mayor of the municipality
24 shall establish and maintain a complete system of records for a
25 utility system, park, ~~or~~ swimming pool, or water conservation
26 infrastructure the revenue of which is encumbered under this
27 chapter that:

1 (1) shows any free service provided and the value of
2 the free service; and

3 (2) shows separately the amounts spent and the amounts
4 set aside for operation, salaries, labor, materials, repairs,
5 maintenance, depreciation, replacements, extensions, interest, and
6 the creation of a sinking fund to pay the public securities and
7 debt.

8 SECTION 16. Section 1502.068, Government Code, is amended
9 to read as follows:

10 Sec. 1502.068. ANNUAL REPORT. (a) Annually, on the date
11 determined by the governing body of the municipality, the
12 superintendent or manager of a utility system, park, ~~or~~ pool, or
13 water conservation infrastructure or another person designated by
14 the governing body shall file with the mayor and governing body of
15 the municipality a detailed report of the operation of the system,
16 park, ~~or~~ pool, or water conservation infrastructure for the
17 preceding 12-month period specified by the governing body.

18 (b) The report must show the total amount of money collected
19 and the balance due, and the total disbursements made and the
20 amounts remaining unpaid, resulting from the operation of the
21 utility system, park, ~~or~~ pool, or water conservation
22 infrastructure during that year.

23 (c) If the municipality provides loans or grants of public
24 money to persons to acquire, purchase, construct, improve,
25 renovate, enlarge, or equip water conservation infrastructure, the
26 report must contain:

27 (1) the types of water conservation infrastructure

1 projects funded;

2 (2) the controls imposed by the municipality on the
3 persons receiving loans or grants to ensure that the public
4 purposes described by Section 1502.005 are being carried out; and

5 (3) an analysis of the results of how the funded water
6 conservation infrastructure projects achieved the intended results
7 in furtherance of the public purposes described by Section
8 1502.005.

9 SECTION 17. Section 1502.069(a), Government Code, is
10 amended to read as follows:

11 (a) A mayor commits an offense if the mayor fails to:

12 (1) establish the system of records required by
13 Section 1502.066 before the 91st day after the date the utility
14 system, park, ~~or~~ pool, or water conservation infrastructure is
15 completed; or

16 (2) maintain the system of records required by Section
17 1502.066.

18 SECTION 18. Section 1502.074, Government Code, is amended
19 to read as follows:

20 Sec. 1502.074. CIVIL ENFORCEMENT. A person who resides in a
21 municipality and is a taxpayer or holder of a public security issued
22 or an obligation incurred under this chapter and secured by the
23 revenue of the municipality's utility system, park, ~~or~~ swimming
24 pool, or water conservation infrastructure as provided by this
25 chapter is entitled to enforce this chapter by appropriate civil
26 action in a district court in the county in which the municipality
27 is located.

1 SECTION 19. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect September 1, 2015.