

By: Zaffirini

S.B. No. 1121

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of a public utility agency to provide
3 water and sewer service and enter into contracts.

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

5 SECTION 1. Section 572.001, Local Government Code, is
6 amended by amending Subdivision (1) and adding Subdivision (4) to
7 read as follows:

8 (1) "Facility" means a facility necessary or
9 incidental to the provision of water or sewer service, [~~the~~
10 ~~collection, transportation, treatment, or disposal of sewage or to~~
11 ~~the conservation, storage, transportation, treatment, or~~
12 ~~distribution of water,~~] including a plant site, right-of-way, and
13 property, equipment, or right of any kind useful in connection with
14 providing water or sewer service [~~the collection, transportation,~~
15 ~~treatment, or disposal of sewage or with the conservation, storage,~~
16 ~~transportation, treatment, or distribution of water~~].

17 (4) "Water or sewer service" means the collection,
18 transportation, treatment, or disposal of sewage or the
19 conservation, storage, transportation, treatment, supply, sale,
20 transfer, or distribution of water.

21 SECTION 2. Section 572.011, Local Government Code, is
22 amended to read as follows:

23 Sec. 572.011. AUTHORITY TO JOINTLY OWN FACILITIES. Two or
24 more public entities that have the authority to provide water or

1 sewer service [~~engage in the collection, transportation,~~
2 ~~treatment, or disposal of sewage or the conservation, storage,~~
3 ~~transportation, treatment, or distribution of water~~] may join
4 together as cotenants or co-owners to plan, finance, acquire,
5 construct, own, operate, or maintain facilities to:

6 (1) achieve economies of scale in providing essential
7 water and sewage systems to the public;

8 (2) promote the orderly economic development of this
9 state; and

10 (3) provide environmentally sound protection of this
11 state's future water and wastewater needs.

12 SECTION 3. Section [572.052\(b\)](#), Local Government Code, is
13 amended to read as follows:

14 (b) A public entity may join in the creation of a public
15 utility agency under this subchapter only if, at the time the
16 concurrent ordinance is adopted, the entity has the authority to
17 provide water or sewer service [~~engage in the collection,~~
18 ~~transportation, treatment, or disposal of sewage or the~~
19 ~~conservation, storage, transportation, treatment, or distribution~~
20 ~~of water~~]. This subsection does not prohibit a public entity from
21 disposing of a facility after creation of the agency.

22 SECTION 4. Section [572.058](#), Local Government Code, is
23 amended to read as follows:

24 Sec. 572.058. POWERS. (a) A public utility agency may not
25 engage in any utility business other than providing water or sewer
26 service [~~the collection, transportation, treatment, or disposal of~~
27 ~~sewage or the conservation, storage, transportation, treatment, or~~

1 ~~distribution of water]~~ for or to a [~~participating~~] public or
2 private entity [~~that owns jointly with the agency a facility in this~~
3 ~~state~~].

4 (b) A public utility agency may:

5 (1) perform any act necessary to the full exercise of
6 the agency's powers;

7 (2) provide water or sewer service for compensation
8 and acquire, operate, maintain, or control facilities in this state
9 to provide the service;

10 (3) enter into a contract, lease, or agreement with or
11 accept a grant or loan from a:

12 (A) department or agency of the United States;

13 (B) department or [~~7~~] agency of this state;

14 (C) [~~7 or municipality or other~~] political
15 subdivision of this state; or

16 (D) [~~(C)~~] public or private corporation or
17 person;

18 (4) [~~(3)~~] sell, lease, convey, or otherwise dispose of
19 any right, interest, or property the agency considers to be
20 unnecessary for the efficient operation or maintenance of its
21 facilities; and

22 (5) [~~(4)~~] adopt rules to govern the operation of the
23 agency and its employees, facilities, and service.

24 SECTION 5. Section 572.059, Local Government Code, is
25 amended by amending Subsection (a) and adding Subsection (c) to
26 read as follows:

27 (a) A public utility agency may enter into [~~award~~] a public

1 work contract using contracting and delivery procedures described
2 by Chapter 2269, Government Code [~~for construction of an~~
3 ~~improvement that involves the expenditure of more than \$20,000 only~~
4 ~~on the basis of competitive bids~~].

5 (c) If a public utility agency facility requires emergency
6 repairs and the agency determines that the delay posed by the
7 contracting methods provided for in this section would prevent or
8 substantially impair the provision of water or sewer service,
9 contracts for the repair of the facility may be made by methods
10 other than those required by this section.

11 SECTION 6. Section 572.060, Local Government Code, is
12 amended to read as follows:

13 Sec. 572.060. CONTRACTS FOR [~~SEWER OR~~] WATER OR SEWER
14 SERVICES. A public utility agency may[+]

15 [~~(1)~~] contract with a [~~the~~] public or private entity:

16 (1) [~~entities creating the agency~~] for the provision
17 of water or sewer service; or [~~collection, transportation,~~
18 ~~treatment, or disposal of sewage or the conservation, storage,~~
19 ~~transportation, treatment, or distribution of water; and~~]

20 (2) to operate, maintain, or control facilities in
21 this state for the provision of water or sewer service [~~under terms~~
22 ~~the agency's board of directors considers appropriate, contract~~
23 ~~with private entities for services described by Subdivision (1)].~~

24 SECTION 7. Section 572.061(a), Local Government Code, is
25 amended to read as follows:

26 (a) In contracting with a public or private entity for water
27 or sewer service [~~wastewater collection, transmission, treatment,~~

1 ~~or disposal services or for water conservation, storage,~~
2 ~~transportation, treatment, or distribution,]~~ a public utility
3 agency must charge rates sufficient to produce revenue adequate to:

4 (1) pay all expenses of operation and maintenance;

5 (2) pay when due the principal of and interest on
6 obligations issued under this subchapter;

7 (3) pay the principal of and interest on any legal debt
8 of the agency;

9 (4) pay when due all sinking and reserve fund
10 payments; and

11 (5) fulfill any agreements made with the holders of
12 any obligations.

13 SECTION 8. The changes in law made by this Act apply only to
14 a contract or construction project for which a public utility
15 agency first advertises or otherwise requests bids, proposals,
16 offers, or qualifications, or makes a similar solicitation, on or
17 after the effective date of this Act. A contract or construction
18 project for which a public utility agency first advertises or
19 otherwise requests bids, proposals, offers, or qualifications, or
20 makes a similar solicitation, before the effective date of this Act
21 is governed by the law in effect on the date of the advertisement,
22 request, or solicitation, and the former law is continued in effect
23 for that purpose.

24 SECTION 9. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2015.