

BILL ANALYSIS

Senate Research Center

H.B. 1946

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Agriculture, Water & Rural Affairs

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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, water districts may contract with cities or other political subdivisions for different purposes. For example, a water district may contract with another political subdivision to create another service district, or with other special purpose districts for developing a water supply project. Some, but not all, of these contracts allow the district to pledge revenues received under the contract as security for bonds issued by the district.

Each bond issuance by a water district must be approved by the Office of the Attorney General (OAG). As part of the approval process, a district must submit all proceedings relating to the organization of the district (for its first bond issuance) and the issuance of the bonds and other relevant information. OAG reviews these documents to ensure that the proposed bond issuance complies with state law and the Constitution. As part of this review process, OAG examines any contracts with revenues that are pledged to the proposed bond issuance. Once the attorney general approves a district's issuance, the contracts pledged to that bond proposal are deemed valid and incontestable in order to ensure the validity of the bonds.

Interested parties observe that ancillary contracts that may have no revenues pledged to a bond issuance are sometimes submitted in a water district bond transcript. Some parties have argued that these ancillary contracts should be validated through the attorney general's approval of the bonds, even though they do not provide revenue or security for the associated bonds. Interested parties observe that this practice involves an excessively broad interpretation of the statutes governing the attorney general's bond review process. These parties further observe that the attorney general's bond review authority could be narrowed to center on contracts that are material to a bond issuance.

H.B. 1946 clarifies that a contract in which the proceeds are pledged to the payment of a water district bond may be submitted to the attorney general for approval and, once approved, that contract shall be held as incontestable. The bill also allows for the submission of ancillary contracts to the attorney general for reviews at the attorney general's discretion. H.B. 1946 provides that if the attorney general reviews and approves an ancillary contract as part of a bond issuance record, then that contract shall be incontestable.

H.B. 1946 amends current law relating to the incontestability of certain contracts or leases submitted to the attorney general by certain water districts.

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 49.184(e), Water Code, as follows:

(e) Authorizes a contract or lease in which the proceeds of the contract or lease are pledged to the payment of a bond, rather than a contract or lease, to be submitted to the Texas attorney general (attorney general) along with the bond records, and, if submitted, the approval by the attorney general of the bonds is required to constitute an approval of

the contract or lease and the contract or lease shall be incontestable. Authorizes a contract or lease, other than a contract or lease in which the proceeds of the contract or lease are pledged to the payment of a bond, to be submitted to the attorney general along with the bond records, and, if reviewed and approved by the attorney general, the approval of the bonds is required to constitute an approval of the contract or lease and the contract or lease is required to be incontestable.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.