

## **BILL ANALYSIS**

C.S.S.B. 1198  
By: Zaffirini  
Special Purpose Districts  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Informed stakeholders indicate that the Hays Caldwell Public Utility Agency, which the stakeholders note was formed to develop a water supply project for the growing population between Austin and San Antonio, has expressed a desire to convert from a public utility agency to a conservation and reclamation district to provide better service to the region. C.S.S.B. 1198 seeks to provide for that conversion.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 1198 converts the Hays Caldwell Public Utility Agency to a conservation and reclamation district to be known as the Alliance Regional Water Authority located in Bexar, Caldwell, Comal, Guadalupe, and Hays Counties and provides for the transition to the new district type.

C.S.S.B. 1198 amends the Special District Local Laws Code to establish provisions relating to the Alliance Regional Water Authority. The bill sets out the authority's powers and duties, which include, subject to certain requirements, the authority to issue obligations and refunding bonds and to establish rates and fees. The bill includes provisions relating to water conservation and drought contingency plans; sponsor conveyances, acquisitions, and removals; and contracts. The bill authorizes the authority to exercise certain powers of eminent domain but prohibits the use of eminent domain for the condemnation of land for the purpose of acquiring rights to groundwater or for the purpose of acquiring water or water rights. The bill prohibits the authority from imposing a property tax.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1198 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. (a) The Hays Caldwell Public Utility Agency is converted to a conservation and reclamation district to be known as the Alliance Regional Water Authority located in Bexar, Caldwell, Comal, Guadalupe, and Hays Counties.

(b) The Alliance Regional Water Authority is not required to hold an election to confirm the creation of the authority.

SECTION 2. Subtitle X, Title 6, Special District Local Laws Code, is amended by adding Chapter 11010 to read as follows:

CHAPTER 11010. ALLIANCE REGIONAL WATER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11010.001. DEFINITIONS.

Sec. 11010.002. NATURE OF AUTHORITY.

Sec. 11010.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

Sec. 11010.004. AUTHORITY TERRITORY.

Sec. 11010.005. METHOD OF ADDING SPONSORS. (a) The governing body of a local government or a private entity, including a water supply corporation, may petition the board to add that local government or private entity as a sponsor.

(b) A petition under Subsection (a) must be submitted in the manner and form required by board rule.

(c) On receipt of a petition under Subsection (a), the board shall set a hearing on the petition and provide notice of the date, time, place, and purpose of the hearing to:

- (1) the sponsors of the authority; and
- (2) the petitioning local government or private entity.

(d) At the hearing, the board shall make a determination on whether:

- (1) the local government or private entity will benefit from being added to the authority as a sponsor; and
- (2) it is in the best interest of the authority to add the local government or private entity

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Subtitle X, Title 6, Special District Local Laws Code, is amended by adding Chapter 11010 to read as follows:

CHAPTER 11010. ALLIANCE REGIONAL WATER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11010.001. DEFINITIONS.

Sec. 11010.002. NATURE OF AUTHORITY.

Sec. 11010.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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Sec. 11010.005. METHOD OF ADDING SPONSORS. (a) The governing body of a local government or a private entity, including a water supply corporation, may petition the board to add that local government or private entity as a sponsor.

(b) A petition under Subsection (a) must be submitted in the manner and form required by board rule.

(c) On receipt of a petition under Subsection (a), the board shall set a hearing on the petition and provide notice of the date, time, place, and purpose of the hearing to:

- (1) the sponsors of the authority; and
- (2) the petitioning local government or private entity.

(d) At the hearing, the board shall determine whether:

- (1) the local government or private entity will benefit from being added to the authority as a sponsor; and
- (2) it is in the best interest of the authority to add the local government or private entity

to the authority as a sponsor.

(e) If, after a hearing on the petition, the board decides that the local government or private entity should be added to the authority as a sponsor, the board shall issue an order:

(1) adding the local government or private entity to the authority;

(2) adding the local government's or private entity's territory or service area to the territory of the authority; and

(3) making the local government's or private entity's territory or service area subject to the privileges, duties, assets, and financial obligations of the authority to the same degree as other sponsors already included in the authority.

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(e) If, after a hearing on the petition, the board determines that the local government or private entity should be added to the authority as a sponsor, the board shall issue an order:

(1) adding the local government or private entity to the authority;

(2) adding the local government's or private entity's territory or service area to the territory of the authority;

(3) making the local government's or private entity's territory or service area subject to the privileges, duties, assets, and financial obligations of the authority to the same degree as other sponsors already included in the authority; and

(4) stating the proposed effective date of the order.

(f) An order issued under Subsection (e) takes effect on the proposed effective date except as otherwise provided by this section. If the subject of the order is a local government, the proposed effective date must allow enough time for the local government to comply with Subsections (g) and (h).

(g) A local government that is the subject of an order issued under Subsection (e) shall publish notice of the authority's proposal to add the local government to the authority as a sponsor. The notice must:

(1) be published in a newspaper of general circulation in the county in which the local government is located;

(2) be published at least once per week for two consecutive weeks and with the first publication appearing on or before the 14th day before the proposed effective date of the order;

(3) state the proposed effective date of the order adding the local government to the authority as a sponsor; and

(4) include information regarding the right of the local government's voters to petition the governing body of the local government to call an election on the question of authorizing the addition of the local government to the authority as a sponsor and the method of making the petition.

(h) If the governing body of the local government, before the proposed effective date of the order, receives a petition calling for an election on the question of authorizing the addition of the local

government to the authority as a sponsor that is signed by at least 10 percent of the local government's registered voters, the governing body shall order a special election on the question. Section 41.001(a), Election Code, does not apply to an election ordered under this subsection.

(i) On receipt of a qualifying petition under Subsection (h), the effective date of the order issued under Subsection (e) is suspended until after the date of the election and the governing body of the local government shall notify the board of the petition and suspension.

(j) If a majority of voters voting in an election held under this section vote in favor of the addition of the local government to the authority as a sponsor, the order issued under Subsection (e) takes effect on the date the result is declared. If a majority of voters voting in the election vote against the addition of the local government to the authority as a sponsor, the order issued under Subsection (e) is ineffective.

Sec. 11010.006. METHOD OF REMOVING SPONSORS.

(a) The governing body of a local government or private entity that is a sponsor of the authority may petition the board to be removed from the authority as a sponsor.

(b) A petition under Subsection (a) must be submitted in the manner and form required by board rule.

(c) After receiving a petition under Subsection (a), the board shall decide whether the petitioning sponsor should be removed from the authority as a sponsor and shall by order approve, conditionally approve, or disapprove the petition.

(d) The board may not approve a petition submitted to the board under this section if that action would impair or violate or conflict with the terms of any outstanding bonds, notes, or other obligations of the authority.

(e) An order issued under Subsection (c) that approves or conditionally approves a sponsor's petition to be removed from the authority as a sponsor must address:

(1) all matters related to the removal as determined by the board, including the removal of the territory of the sponsor and territory located in the service area of the sponsor as provided by the sponsor's certificate of convenience and necessity; and

(2) if applicable, any conditions imposed by the board that the petitioning sponsor must satisfy before the board approves the petition, which may include:

(A) payment by the petitioning sponsor of all bonds, notes, or other obligations issued by the authority on behalf of the sponsor;

(B) payment by the petitioning sponsor of the sponsor's pro rata share of any bond, note, or other obligation issued by the authority, other than the bonds, notes, or other obligations described by Paragraph (A), if the payment is allowed under the terms of the bond, note, or other obligation;

(C) conditions related to the ownership or transfer of ownership of real property, facilities, equipment, personnel, and supplies; and

(D) conditions the authority considers necessary for the winding up of activities in connection with the removal of the petitioning sponsor as a sponsor from the authority.

(f) If the board by order conditionally approves a sponsor's petition under Subsection (c), the petitioning sponsor remains a sponsor and shall make all payments owed to the authority when due and shall satisfy all conditions included in the order. The board shall approve the petition immediately after all required payments to the authority are received and all conditions included in the order are satisfied as determined by the board.

(g) The removal of a local government or private entity from the authority as a sponsor under this section does not prohibit the local government or private entity from contracting with the authority for the provision of water supply, wastewater treatment, or other services provided by the authority.

Sec. 11010.007. REAPPORTIONMENT OF DIRECTORS. After the addition or removal of a sponsor under this subchapter, the board by rule shall reapportion the directors of the authority among the sponsors in accordance with Section 11010.051(c)(2). The board may increase or decrease the number of directors on the board in accordance with Section 11010.051(a).

Sec. 11010.008. LIBERAL CONSTRUCTION OF CHAPTER.

(f) After the addition of a sponsor to the authority, the board shall adopt rules that reapportion the directors of the authority among the sponsors in accordance with the rules adopted under Section 11010.051(c)(2) and may increase or decrease the number of directors on the board within the range provided by Section 11010.051(a).

Sec. 11010.006. LIBERAL CONSTRUCTION OF CHAPTER.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 11010.051. DIRECTORS. (a) The authority is governed by a board of directors consisting of at least 7 and not more than 17 members.

(b) The board is responsible for the management, operation, and control of the authority.

(c) The board shall adopt rules that:

(1) establish the number of directors of the authority; and

(2) determine the apportionment of directors for each sponsor based on the amount of water contracted to be supplied to the sponsor under the terms of the authority's water supply contract with the sponsor.

Sec. 11010.052. ELIGIBILITY TO SERVE AS DIRECTOR.

Sec. 11010.053. APPOINTMENT OF DIRECTORS.

Sec. 11010.054. TERMS OF OFFICE.

Sec. 11010.055. REMOVAL OF DIRECTOR.

Sec. 11010.056. BOARD VACANCY.

Sec. 11010.057. VOTING AUTHORITY.

Sec. 11010.058. OFFICERS.

Sec. 11010.059. MEETINGS AND ACTIONS OF BOARD; QUORUM.

SUBCHAPTER C. POWERS AND DUTIES

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

SUBCHAPTER E. BONDS, NOTES, AND OTHER OBLIGATIONS

Sec. 11010.201. REVENUE BONDS, NOTES, AND OTHER OBLIGATIONS.

(a) In addition to bonds, notes, and other obligations that the authority is authorized to issue under other law, to accomplish the purposes of the authority, the authority may issue bonds, notes, or other obligations payable solely from and secured by all or

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(b) The board is responsible for the management, operation, and control of the authority.

(c) The board by rule shall:

(1) establish the number of directors of the authority; and

(2) apportion the directors for each sponsor based on the amount of water contracted to be supplied to the sponsor under the terms of the authority's water supply contract with the sponsor, subject to Section 11010.053(a).

Sec. 11010.052. ELIGIBILITY TO SERVE AS DIRECTOR.

Sec. 11010.053. APPOINTMENT OF DIRECTORS.

Sec. 11010.054. TERMS OF OFFICE.

Sec. 11010.055. REMOVAL OF DIRECTOR.

Sec. 11010.056. BOARD VACANCY.

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(a) In addition to bonds, notes, and other obligations that the authority is authorized to issue under other law, to accomplish the purposes of the authority, the authority may issue bonds, notes, or other obligations payable solely from and secured by all or

part of any funds or any revenue from any source or sources, including:

(1) fees, rates, and other charges the authority imposes or collects;

(2) the sale of:

(A) water;

(B) water or wastewater services;

(C) water rights or capacity;

(D) water transmission rights, capacity, or services;

(E) water pumping;

(F) wastewater reused directly or indirectly;

(G) aquifer storage and recovery services;

(H) sewer services; or

(I) any other service or product of the authority provided inside or outside the boundaries of the authority;

(3) grants or gifts;

(4) the ownership or operation of all or a designated part of the authority's works, improvements, facilities, plants, or equipment; and

(5) the proceeds of contracts.

(b) Bonds, notes, or other obligations issued by the authority may be first or subordinate lien obligations at the board's discretion.

(c) In connection with any bonds, notes, or other obligations of the authority, the authority may exercise any power of an issuer under Chapter 1371, Government Code.

(d) The authority may conduct a public, private, or negotiated sale of the bonds, notes, or other obligations.

(e) The authority may enter into one or more indentures of trust to further secure its bonds, notes, or other obligations.

(f) The authority may issue bonds, notes, or other obligations in more than one series as necessary to carry out the purposes of this chapter. In issuing bonds, notes, or other obligations secured by revenue of the authority, the authority may reserve the right to issue additional bonds, notes, or other obligations secured by the authority's revenue that are on parity with or are senior or subordinate to the bonds, notes, or other obligations issued earlier.

(g) A resolution of the board or a trust indenture securing the bonds, notes, or other obligations may specify additional provisions that constitute a contract between the authority and the authority's bondholders, noteholders, or other obligation holders.

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(1) fees, rates, and other charges the authority imposes or collects;

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(I) any other service or product of the authority provided inside or outside the boundaries of the authority;

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(4) the ownership or operation of all or a designated part of the authority's works, improvements, facilities, plants, or equipment; and

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(d) The authority may conduct a public, private, or negotiated sale of the bonds, notes, or other obligations.

(e) The authority may enter into one or more indentures of trust to further secure its bonds, notes, or other obligations.

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(g) A resolution of the board or a trust indenture securing the bonds, notes, or other obligations may specify additional provisions that constitute a contract between the authority and the authority's bondholders, noteholders, or other obligation holders.

(h) Bonds, notes, or other obligations may be additionally secured by deed of trust or mortgage on any or all of the authority's facilities.

(i) Bonds, notes, or other obligations issued by the authority are not subject to approval by the Texas Commission on Environmental Quality, and commission rules regarding bonds, notes, or other obligations do not apply to bonds, notes, or other obligations issued by the authority.

(j) The authority provided by this chapter for the authorization and issuance of bonds, notes, and other obligations is in addition to, and not in lieu of, the authority otherwise established under general law and may not be construed as a limitation on, or a modification of, general law providing for authorization and issuance of bonds, notes, and other forms of obligations. Nothing in this chapter may be construed as affecting any existing contract, bond, note, or other obligation of the authority or any indenture, covenant, mortgage, or other agreement relating to them.

Sec. 11010.202. ELECTION NOT REQUIRED.

Sec. 11010.203. USE OF REVENUE AND GROWTH PROJECTIONS.

Sec. 11010.204. REFUNDING BONDS.

Sec. 11010.205. BONDS, NOTES, AND OTHER OBLIGATIONS EXEMPT FROM TAXATION.

SECTION 3. On the effective date of this Act:

(1) the Alliance Regional Water Authority shall assume all assets, liabilities, bonds, notes, and other obligations of the Hays Caldwell Public Utility Agency;

(2) all contracts and written agreements of the Hays Caldwell Public Utility Agency are assigned to and assumed by the Alliance Regional Water Authority; and

(3) the Alliance Regional Water Authority may refund all or a portion of the bonds, notes, or other obligations issued by the Hays Caldwell Public Utility Agency in any manner provided by law, including Chapter 1207, Government Code.

SECTION 4. (a) The sponsors of the

(h) Bonds, notes, or other obligations may be additionally secured by deed of trust or mortgage on any or all of the authority's facilities.

(i) The authority provided by this chapter for the authorization and issuance of bonds, notes, and other obligations is in addition to, and not in lieu of, the authority otherwise established under general law and may not be construed as a limitation on, or a modification of, general law providing for authorization and issuance of bonds, notes, and other forms of obligations. Nothing in this chapter may be construed as affecting any existing contract, bond, note, or other obligation of the authority or any indenture, covenant, mortgage, or other agreement relating to them.

Sec. 11010.202. ELECTION NOT REQUIRED.

Sec. 11010.203. USE OF REVENUE AND GROWTH PROJECTIONS.

Sec. 11010.204. REFUNDING BONDS.

Sec. 11010.205. BONDS, NOTES, AND OTHER OBLIGATIONS EXEMPT FROM TAXATION.

SECTION 3. Same as engrossed version.

SECTION 4. Same as engrossed version.



Alliance Regional Water Authority shall appoint the initial directors under Section 11010.053, Special District Local Laws Code, as added by this Act, not earlier than April 1, 2018, and not later than April 30, 2018. Directors of the Hays Caldwell Public Utility Agency serving on the effective date of this Act shall serve as the temporary directors of the Alliance Regional Water Authority until the initial directors take office on May 1, 2018.

(b) As soon as practicable after the initial directors have been appointed under Section 11010.053, Special District Local Laws Code, as added by this Act, the initial directors shall draw lots to determine which directors serve a one-year term expiring April 30, 2019, which directors serve a two-year term expiring April 30, 2020, and which directors serve a three-year term expiring April 30, 2021. The lots must be split into thirds or as near to thirds as possible.

(c) This section expires January 1, 2022.

SECTION 5. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article

SECTION 5. Same as engrossed version.

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III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.