

AN ACT

relating to the administration, powers, and duties of water districts.

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

SECTION 1. Sections 42.042(b), (f), (g), and (h), Local Government Code, are amended to read as follows:

(b) If the governing body fails or refuses to give its consent for the creation of the political subdivision, including a water district previously created by an act of the legislature, on mutually agreeable terms within 90 days after the date the governing body [~~it~~] receives a written request for the consent, a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision may petition the governing body to make available to the area the water, sanitary sewer services, or both that would be provided by the political subdivision.

(f) If the municipality fails or refuses to give its consent to the creation of the political subdivision, including a water district previously created by an act of the legislature, or fails or refuses to execute a contract providing for the water or sanitary sewer services requested within the time limits prescribed by this section, the applicant may petition the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality for the creation

1 of the political subdivision or the inclusion of the land in a
2 political subdivision. The commission shall allow creation or
3 confirmation of the creation of the political subdivision or
4 inclusion of the land in a proposed political subdivision on
5 finding that the municipality either does not have the reasonable
6 ability to serve or has failed to make a legally binding commitment
7 with sufficient funds available to provide water and wastewater
8 service adequate to serve the proposed development at a reasonable
9 cost to the landowner. The commitment must provide that
10 construction of the facilities necessary to serve the land will
11 begin within two years and will be substantially completed within
12 4-1/2 years after the date the petition was filed with the
13 municipality.

14 (g) On an appeal taken to the district court from the [~~Texas~~
15 ~~Natural Resource Conservation Commission's~~] ruling of the Texas
16 Commission on Environmental Quality, all parties to the commission
17 hearing must be made parties to the appeal. The court shall hear
18 the appeal within 120 days after the date the appeal is filed. If
19 the case is continued or appealed to a higher court beyond the
20 120-day period, the court shall require the appealing party or
21 party requesting the continuance to post a bond or other adequate
22 security in the amount of damages that may be incurred by any party
23 as a result of the appeal or delay from the commission action. The
24 amount of the bond or other security shall be determined by the
25 court after notice and hearing. On final disposition, a court may
26 award damages, including any damages for delays, attorney's fees,
27 and costs of court to the prevailing party.

1 (h) A municipality may not unilaterally extend the time
2 limits prescribed by this section through the adoption of
3 preapplication periods or by passage of any rules, resolutions,
4 ordinances, or charter provisions. However, the municipality and
5 the petitioner may jointly petition the Texas [~~Natural Resource~~
6 ~~Conservation~~] Commission on Environmental Quality to request an
7 extension of the time limits.

8 SECTION 2. Section 49.107(d), Water Code, is amended to
9 read as follows:

10 (d) The proposition in an operation and maintenance tax
11 election may be for a specific maximum rate or for an unlimited
12 rate. The ballot for an operation and maintenance tax election
13 shall be printed to provide for voting for or against the
14 proposition: "An Operation and Maintenance Tax" and either "Not to
15 exceed _____ (\$_____) Per One Hundred Dollars (\$100) Valuation of
16 Taxable Property" or "At an Unlimited Rate," as applicable. The
17 ballot may describe the general purpose and state the
18 constitutional authorization of the operation and maintenance tax.

19 SECTION 3. Section 49.351(a), Water Code, is amended to
20 read as follows:

21 (a) A district providing potable water or sewer services or
22 facilities [~~service to household users~~] may, separately or jointly
23 with another district, municipality, or other political
24 subdivision, establish, operate, and maintain, finance with ad
25 valorem taxes, mandatory fees, or voluntary contributions, and
26 issue bonds for a fire department to perform all fire-fighting
27 services within the district as provided in this subchapter and may

1 provide for the construction and purchase of necessary buildings,
2 facilities, land, and equipment and the provision of an adequate
3 water supply.

4 SECTION 4. Section 54.022, Water Code, is amended to read as
5 follows:

6 Sec. 54.022. TEMPORARY DIRECTORS. (a) If the commission
7 grants the petition, it shall appoint five temporary directors to
8 serve until permanent directors are elected.

9 (b) Except as provided by Subsection (c), a majority of
10 temporary directors appointed under Subsection (a) must be
11 residents of:

12 (1) the county in which the district is located;

13 (2) a county adjacent to the county described by
14 Subdivision (1); or

15 (3) if the district is located in a county that is in a
16 metropolitan statistical area designated by the United States
17 Office of Management and Budget or its successor agency, a county in
18 the same metropolitan statistical area as the county in which the
19 district is located.

20 (c) The commission may appoint temporary directors who do
21 not meet the requirements of Subsection (b) if the petition or the
22 application accompanying the petition provides that the petitioner
23 made reasonable efforts but failed to identify candidates meeting
24 those requirements who were willing to serve as temporary
25 directors.

26 SECTION 5. Section 54.030, Water Code, is amended by
27 amending Subsections (b) and (c) and adding Subsections (d) and (e)

1 to read as follows:

2 (b) The governing body of a district which desires to
3 convert into a district operating under this chapter shall, after
4 providing notice in accordance with Section 54.032, hold a hearing
5 on the question of the conversion of the district [~~adopt and enter~~
6 ~~in the minutes of the governing body a resolution declaring that in~~
7 ~~its judgment, conversion~~] into a municipal utility district
8 operating under this chapter and under Article XVI, Section 59, of
9 the Texas Constitution.

10 (c) The governing body of the converting district must
11 present a general description of any litigation that is pending
12 against the district at the hearing under Subsection (b).

13 (d) After the hearing held under Subsection (b), the
14 governing body of the converting district may adopt and enter in the
15 minutes of the governing body a resolution declaring that in the
16 judgment of the governing body, conversion under this section[~~7~~]
17 would serve the best interest of the district and would be a benefit
18 to the land and property included in the district. The resolution
19 shall also request that the commission approve [~~to hold a hearing on~~
20 ~~the question of~~] the conversion of the district.

21 (e) [~~(c)~~] A copy of the resolution under Subsection (d)
22 shall be:

- 23 (1) filed with the commission; and
24 (2) mailed to each state senator and representative
25 who represents the area in which the district is located.

26 SECTION 6. Section 54.032(a), Water Code, is amended to
27 read as follows:

1 (a) The governing body of a district described by Section
2 54.030(b) shall give notice [~~Notice~~] of the conversion hearing
3 [~~shall be given~~] by publishing notice in a newspaper with general
4 circulation in [~~the county or counties in which~~] the district [~~is~~
5 ~~located~~].

6 SECTION 7. Section 54.033(a), Water Code, is amended to
7 read as follows:

8 (a) After receiving a request for the approval of a
9 conversion under Section 54.030(d) [~~a hearing~~], if the commission
10 finds that conversion of the district into one operating under this
11 chapter would serve the best interest of the district and would be a
12 benefit to the land and property included in the district, the
13 commission [~~it~~] shall enter an order making this finding and the
14 district shall become a district operating under this chapter and
15 no confirmation election is [~~shall be~~] required.

16 SECTION 8. Section 54.234(a), Water Code, is amended to
17 read as follows:

18 (a) Any district or any petitioner seeking the creation of a
19 district may petition the commission to acquire the power under the
20 authority of Article III, Section 52, Texas Constitution, to
21 design, acquire, construct, finance, issue bonds for, operate,
22 maintain, and convey to this state, a county, or a municipality for
23 operation and maintenance, a road [~~described by Subsection (b)~~] or
24 any improvement in aid of the road.

25 SECTION 9. The heading to Section 54.2351, Water Code, is
26 amended to read as follows:

27 Sec. 54.2351. CONTRACTS WITH OTHER DISTRICTS, OR WATER

1 SUPPLY CORPORATIONS, OR OTHER RETAIL PUBLIC UTILITIES.

2 SECTION 10. Section 54.2351, Water Code, is amended by
3 adding Subsection (i) to read as follows:

4 (i) In this subsection, "retail public utility" has the
5 meaning assigned by Section 13.002. A district may enter into a
6 contract with a retail public utility for water or sewer service
7 under which the retail public utility may use the district's water
8 or sewer system to serve customers located in the district.

9 SECTION 11. Section 54.801(a), Water Code, is amended to
10 read as follows:

11 (a) A district that is composed of at least 1,000 [~~1,500~~]
12 acres may define areas or designate certain property of the
13 district to pay for improvements, facilities, or services that
14 primarily benefit that area or property and do not generally and
15 directly benefit the district as a whole.

16 SECTION 12. Section 54.802(b), Water Code, is amended to
17 read as follows:

18 (b) The board shall file an engineer's report [~~adopt a~~
19 ~~proposed plan~~] for improvements in the defined area or to serve the
20 designated property [~~in the manner provided by Section 49.106~~].

21 SECTION 13. Section 54.805, Water Code, is amended to read
22 as follows:

23 Sec. 54.805. OBTAINING FUNDS TO CONSTRUCT, ADMINISTER,
24 MAINTAIN, AND OPERATE IMPROVEMENTS AND FACILITIES IN DEFINED AREAS
25 OR DESIGNATED PROPERTY. On adoption of the proposed plan [~~plans~~]
26 provided by this subchapter [~~Section 54.804 of this code~~] and voter
27 approval of the imposition of taxes and issuance of bonds [~~the~~

1 ~~plans~~], the district, under the limitations of this subchapter, may
2 apply separately, differently, equitably, and specifically its
3 taxing power and lien authority to the defined area or designated
4 property to provide money to construct, administer, maintain, and
5 operate improvements and facilities that primarily benefit the
6 defined area or designated property.

7 SECTION 14. Section 54.806(a), Water Code, is amended to
8 read as follows:

9 (a) Before bonds may be issued or taxes may be imposed for
10 the defined area or designated property, the bonds or taxes [~~the~~
11 ~~adopted plans may become effective, they~~] must be approved by the
12 voters in the defined area or within the boundaries of the
13 designated property. The election shall be conducted as provided
14 by Section 49.106 for an election to authorize the issuance of bonds
15 or Section 49.107 for an election to authorize the imposition of an
16 operation and maintenance tax.

17 SECTION 15. Section 54.809, Water Code, is amended to read
18 as follows:

19 Sec. 54.809. ISSUANCE OF BONDS AND IMPOSITION [~~LEVY~~] OF TAX
20 FOR DEFINED AREA OR DESIGNATED PROPERTY. After approval by the
21 voters [~~the order is recorded~~], the district may issue [~~its~~]
22 and impose taxes to provide the specific plant, works, and
23 facilities included in the engineer's report [~~plans adopted~~] for
24 the defined area, or to serve the designated property [~~and shall~~
25 ~~provide the plant, works, and facilities~~].

26 SECTION 16. Section 54.812(b), Water Code, is amended to
27 read as follows:

1 (b) The prescribed notice shall be inserted into the general
2 notice after the first sentence and shall read substantially as
3 follows: "The real property described below, which you are about to
4 purchase, may [~~is~~] also be located within a defined [~~designated~~]
5 area of the district and the [~~your~~] land may [~~will~~] be subject to
6 defined area taxes in addition to the [~~a higher tax than~~] other
7 taxes of [~~land within~~] the district. As of this date, the
8 additional [~~Your~~] rate of taxes within the defined area is [~~will be~~
9 ~~higher by~~] \$_____ on each \$100 of assessed valuation [~~than land not~~
10 ~~within the designated area~~]."

11 SECTION 17. Section [6901.061](#)(e), Special District Local
12 Laws Code, is amended to read as follows:

13 (e) The district may not issue bonds or other obligations
14 secured wholly or partly by ad valorem taxes to finance a project
15 authorized by Subsection (b) unless the issuance is approved by a
16 vote of a two-thirds majority of the voters of the defined area to
17 be benefited by the project as provided by Subchapter J, Chapter [54](#),
18 Water Code, voting at an election called for that purpose. [~~The~~
19 ~~simple majority vote approval required by Section [54.808](#)(a), Water~~
20 ~~Code, does not apply to an election under this subsection.~~]

21 SECTION 18. Section [8130.151](#)(b), Special District Local
22 Laws Code, is amended to read as follows:

23 (b) The district may not issue bonds or other obligations
24 secured in whole or in part by ad valorem taxation to finance
25 projects authorized by Section [8130.051](#) unless the issuance is
26 approved by a vote of a two-thirds majority of the voters of the
27 district or of the defined area to be benefited by the project as

1 provided by Subchapter J, Chapter 54, Water Code, voting at an
2 election called for that purpose. [~~The simple majority vote
3 approval required by Section 54.808(a), Water Code, does not apply
4 to an election under this subsection.~~]

5 SECTION 19. Section 8176.151(b), Special District Local
6 Laws Code, is amended to read as follows:

7 (b) The district may not issue bonds or other obligations
8 secured wholly or partly by ad valorem taxation to finance projects
9 authorized by Section 8176.051 unless the issuance is approved by a
10 vote of a two-thirds majority of the voters in the district or of
11 the defined areas to be benefited by the project as provided by
12 Subchapter J, Chapter 54, Water Code, voting at an election called
13 for that purpose. [~~The simple majority vote approval required by
14 Section 54.808(a), Water Code, does not apply to an election under
15 this subsection.~~]

16 SECTION 20. Section 8198.151(b), Special District Local
17 Laws Code, is amended to read as follows:

18 (b) The district may not issue bonds or other obligations
19 secured wholly or partly by ad valorem taxation to finance projects
20 authorized by Section 8198.051 unless the issuance is approved by a
21 vote of a two-thirds majority of the voters in the district or of
22 the defined areas to be benefited by the project as provided by
23 Subchapter J, Chapter 54, Water Code, voting at an election called
24 for that purpose. [~~The simple majority vote approval required by
25 Section 54.808(a), Water Code, does not apply to an election under
26 this subsection.~~]

27 SECTION 21. Section 8261.151(b), Special District Local

1 Laws Code, is amended to read as follows:

2 (b) The district may not issue bonds or other obligations to
3 finance projects authorized by Section 8261.051 unless the issuance
4 is approved by a vote of a two-thirds majority of the district
5 voters, or a two-thirds majority of voters in a defined area that
6 will benefit from the project, as provided by Subchapter J, Chapter
7 54, Water Code, voting at an election called for that purpose. [~~The
8 simple majority vote approval required by Section 54.808(a), Water
9 Code, does not apply to an election under this section.~~]

10 SECTION 22. Section 8413.151(b), Special District Local
11 Laws Code, is amended to read as follows:

12 (b) The district may not issue bonds or other obligations
13 secured wholly or partly by ad valorem taxation to finance projects
14 authorized by Section 8413.051 unless the issuance is approved by a
15 vote of a two-thirds majority of the voters in the district or of
16 the defined areas to be benefited by the project as provided by
17 Subchapter J, Chapter 54, Water Code, voting at an election called
18 for that purpose. [~~The simple majority vote approval required by
19 Section 54.808(a), Water Code, does not apply to an election under
20 this subsection.~~]

21 SECTION 23. Section 8467.151(b), Special District Local
22 Laws Code, is amended to read as follows:

23 (b) The district may not issue bonds or other obligations
24 secured wholly or partly by ad valorem taxation to finance projects
25 authorized by Section 8467.053 unless the issuance is approved by a
26 vote of a two-thirds majority of the voters in the district or of
27 the defined areas to be benefited by the project as provided by

1 Subchapter J, Chapter 54, Water Code, voting at an election called
2 for that purpose. [~~The simple majority vote approval required by~~
3 ~~Section 54.808(a), Water Code, does not apply to an election under~~
4 ~~this subsection.~~]

5 SECTION 24. Sections 54.234(b), 54.803, 54.804(a), 54.807,
6 and 54.808, Water Code, are repealed.

7 SECTION 25. Section 54.022, Water Code, as amended by this
8 Act, does not affect the entitlement of a temporary director
9 serving on the board of directors of a municipal utility district
10 under Chapter 54, Water Code, immediately before the effective date
11 of this Act to continue to serve as a temporary director for the
12 remainder of the director's term.

13 SECTION 26. The changes in law made by this Act to Chapter
14 54, Water Code, apply only to a water district's conversion into a
15 municipal utility district operating under Chapter 54, Water Code,
16 occurring on or after the effective date of this Act. A conversion
17 that occurs before the effective date of this Act is governed by the
18 law in effect on the date the conversion occurred, and the former
19 law is continued in effect for that purpose.

20 SECTION 27. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 2590 was passed by the House on May 3, 2019, by the following vote: Yeas 140, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2590 on May 24, 2019, by the following vote: Yeas 89, Nays 51, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2590 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor