

1-1 By: Biedermann (Senate Sponsor - Creighton) H.B. No. 2590  
1-2 (In the Senate - Received from the House May 6, 2019;  
1-3 May 7, 2019, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 19, 2019, reported adversely,  
1-5 with favorable Committee Substitute by the following vote: Yeas 7,  
1-6 Nays 0; May 19, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 2590 By: Lucio

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the administration, powers, and duties of water  
1-20 districts.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Sections 42.042(b), (f), (g), and (h), Local  
1-23 Government Code, are amended to read as follows:

1-24 (b) If the governing body fails or refuses to give its  
1-25 consent for the creation of the political subdivision, including a  
1-26 water district previously created by an act of the legislature, on  
1-27 mutually agreeable terms within 90 days after the date the  
1-28 governing body [it] receives a written request for the consent, a  
1-29 majority of the qualified voters of the area of the proposed  
1-30 political subdivision and the owners of at least 50 percent of the  
1-31 land in the proposed political subdivision may petition the  
1-32 governing body to make available to the area the water, sanitary  
1-33 sewer services, or both that would be provided by the political  
1-34 subdivision.

1-35 (f) If the municipality fails or refuses to give its consent  
1-36 to the creation of the political subdivision, including a water  
1-37 district previously created by an act of the legislature, or fails  
1-38 or refuses to execute a contract providing for the water or sanitary  
1-39 sewer services requested within the time limits prescribed by this  
1-40 section, the applicant may petition the Texas [Natural Resource  
1-41 Conservation] Commission on Environmental Quality for the creation  
1-42 of the political subdivision or the inclusion of the land in a  
1-43 political subdivision. The commission shall allow creation or  
1-44 confirmation of the creation of the political subdivision or  
1-45 inclusion of the land in a proposed political subdivision on  
1-46 finding that the municipality either does not have the reasonable  
1-47 ability to serve or has failed to make a legally binding commitment  
1-48 with sufficient funds available to provide water and wastewater  
1-49 service adequate to serve the proposed development at a reasonable  
1-50 cost to the landowner. The commitment must provide that  
1-51 construction of the facilities necessary to serve the land will  
1-52 begin within two years and will be substantially completed within  
1-53 4-1/2 years after the date the petition was filed with the  
1-54 municipality.

1-55 (g) On an appeal taken to the district court from the [~~Texas~~  
1-56 ~~Natural Resource Conservation Commission's~~] ruling of the Texas  
1-57 Commission on Environmental Quality, all parties to the commission  
1-58 hearing must be made parties to the appeal. The court shall hear  
1-59 the appeal within 120 days after the date the appeal is filed. If  
1-60 the case is continued or appealed to a higher court beyond the

2-1 120-day period, the court shall require the appealing party or  
2-2 party requesting the continuance to post a bond or other adequate  
2-3 security in the amount of damages that may be incurred by any party  
2-4 as a result of the appeal or delay from the commission action. The  
2-5 amount of the bond or other security shall be determined by the  
2-6 court after notice and hearing. On final disposition, a court may  
2-7 award damages, including any damages for delays, attorney's fees,  
2-8 and costs of court to the prevailing party.

2-9 (h) A municipality may not unilaterally extend the time  
2-10 limits prescribed by this section through the adoption of  
2-11 preapplication periods or by passage of any rules, resolutions,  
2-12 ordinances, or charter provisions. However, the municipality and  
2-13 the petitioner may jointly petition the Texas [~~Natural Resource~~  
2-14 ~~Conservation~~] Commission on Environmental Quality to request an  
2-15 extension of the time limits.

2-16 SECTION 2. Section 49.107(d), Water Code, is amended to  
2-17 read as follows:

2-18 (d) The proposition in an operation and maintenance tax  
2-19 election may be for a specific maximum rate or for an unlimited  
2-20 rate. The ballot for an operation and maintenance tax election  
2-21 shall be printed to provide for voting for or against the  
2-22 proposition: "An Operation and Maintenance Tax" and either "Not to  
2-23 exceed \_\_\_\_\_ (\$ \_\_\_\_\_) Per One Hundred Dollars (\$100) Valuation of  
2-24 Taxable Property" or "At an Unlimited Rate," as applicable. The  
2-25 ballot may describe the general purpose and state the  
2-26 constitutional authorization of the operation and maintenance tax.

2-27 SECTION 3. Section 49.351(a), Water Code, is amended to  
2-28 read as follows:

2-29 (a) A district providing potable water or sewer services or  
2-30 facilities [~~service to household users~~] may, separately or jointly  
2-31 with another district, municipality, or other political  
2-32 subdivision, establish, operate, and maintain, finance with ad  
2-33 valorem taxes, mandatory fees, or voluntary contributions, and  
2-34 issue bonds for a fire department to perform all fire-fighting  
2-35 services within the district as provided in this subchapter and may  
2-36 provide for the construction and purchase of necessary buildings,  
2-37 facilities, land, and equipment and the provision of an adequate  
2-38 water supply.

2-39 SECTION 4. Section 54.022, Water Code, is amended to read as  
2-40 follows:

2-41 Sec. 54.022. TEMPORARY DIRECTORS. (a) If the commission  
2-42 grants the petition, it shall appoint five temporary directors to  
2-43 serve until permanent directors are elected.

2-44 (b) Except as provided by Subsection (c), a majority of  
2-45 temporary directors appointed under Subsection (a) must be  
2-46 residents of:

2-47 (1) the county in which the district is located;

2-48 (2) a county adjacent to the county described by  
2-49 Subdivision (1); or

2-50 (3) if the district is located in a county that is in a  
2-51 metropolitan statistical area designated by the United States  
2-52 Office of Management and Budget or its successor agency, a county in  
2-53 the same metropolitan statistical area as the county in which the  
2-54 district is located.

2-55 (c) The commission may appoint temporary directors who do  
2-56 not meet the requirements of Subsection (b) if the petition or the  
2-57 application accompanying the petition provides that the petitioner  
2-58 made reasonable efforts but failed to identify candidates meeting  
2-59 those requirements who were willing to serve as temporary  
2-60 directors.

2-61 SECTION 5. Section 54.030, Water Code, is amended by  
2-62 amending Subsections (b) and (c) and adding Subsections (d) and (e)  
2-63 to read as follows:

2-64 (b) The governing body of a district which desires to  
2-65 convert into a district operating under this chapter shall, after  
2-66 providing notice in accordance with Section 54.032, hold a hearing  
2-67 on the question of the conversion of the district [~~adopt and enter~~  
2-68 ~~in the minutes of the governing body a resolution declaring that in~~  
2-69 ~~its judgment, conversion~~] into a municipal utility district

3-1 operating under this chapter and under Article XVI, Section 59, of  
3-2 the Texas Constitution.

3-3 (c) The governing body of the converting district must  
3-4 present a general description of any litigation that is pending  
3-5 against the district at the hearing under Subsection (b).

3-6 (d) After the hearing held under Subsection (b), the  
3-7 governing body of the converting district may adopt and enter in the  
3-8 minutes of the governing body a resolution declaring that in the  
3-9 judgment of the governing body, conversion under this section~~[7]~~  
3-10 would serve the best interest of the district and would be a benefit  
3-11 to the land and property included in the district. The resolution  
3-12 shall also request that the commission approve ~~[to hold a hearing on~~  
3-13 ~~the question of]~~ the conversion of the district.

3-14 (e) ~~[(e)]~~ A copy of the resolution under Subsection (d)  
3-15 shall be:

- 3-16 (1) filed with the commission; and
- 3-17 (2) mailed to each state senator and representative  
3-18 who represents the area in which the district is located.

3-19 SECTION 6. Section 54.032(a), Water Code, is amended to  
3-20 read as follows:

3-21 (a) The governing body of a district described by Section  
3-22 54.030(b) shall give notice ~~[Notice]~~ of the conversion hearing  
3-23 ~~[shall be given]~~ by publishing notice in a newspaper with general  
3-24 circulation in ~~[the county or counties in which]~~ the district ~~[is~~  
3-25 ~~located]~~.

3-26 SECTION 7. Section 54.033(a), Water Code, is amended to  
3-27 read as follows:

3-28 (a) After receiving a request for the approval of a  
3-29 conversion under Section 54.030(d) ~~[a hearing]~~, if the commission  
3-30 finds that conversion of the district into one operating under this  
3-31 chapter would serve the best interest of the district and would be a  
3-32 benefit to the land and property included in the district, the  
3-33 commission ~~[it]~~ shall enter an order making this finding and the  
3-34 district shall become a district operating under this chapter and  
3-35 no confirmation election is ~~[shall be]~~ required.

3-36 SECTION 8. Section 54.234(a), Water Code, is amended to  
3-37 read as follows:

3-38 (a) Any district or any petitioner seeking the creation of a  
3-39 district may petition the commission to acquire the power under the  
3-40 authority of Article III, Section 52, Texas Constitution, to  
3-41 design, acquire, construct, finance, issue bonds for, operate,  
3-42 maintain, and convey to this state, a county, or a municipality for  
3-43 operation and maintenance, a road ~~[described by Subsection (b)]~~ or  
3-44 any improvement in aid of the road.

3-45 SECTION 9. The heading to Section 54.2351, Water Code, is  
3-46 amended to read as follows:

3-47 Sec. 54.2351. CONTRACTS WITH OTHER DISTRICTS, [OR] WATER  
3-48 SUPPLY CORPORATIONS, OR OTHER RETAIL PUBLIC UTILITIES.

3-49 SECTION 10. Section 54.2351, Water Code, is amended by  
3-50 adding Subsection (i) to read as follows:

3-51 (i) In this subsection, "retail public utility" has the  
3-52 meaning assigned by Section 13.002. A district may enter into a  
3-53 contract with a retail public utility for water or sewer service  
3-54 under which the retail public utility may use the district's water  
3-55 or sewer system to serve customers located in the district.

3-56 SECTION 11. Section 54.801(a), Water Code, is amended to  
3-57 read as follows:

3-58 (a) A district that is composed of at least 1,000 ~~[1,500]~~  
3-59 acres may define areas or designate certain property of the  
3-60 district to pay for improvements, facilities, or services that  
3-61 primarily benefit that area or property and do not generally and  
3-62 directly benefit the district as a whole.

3-63 SECTION 12. Section 54.802(b), Water Code, is amended to  
3-64 read as follows:

3-65 (b) The board shall file an engineer's report ~~[adopt a~~  
3-66 ~~proposed plan]~~ for improvements in the defined area or to serve the  
3-67 designated property ~~[in the manner provided by Section 49.106].~~

3-68 SECTION 13. Section 54.805, Water Code, is amended to read  
3-69 as follows:

4-1 Sec. 54.805. OBTAINING FUNDS TO CONSTRUCT, ADMINISTER,  
4-2 MAINTAIN, AND OPERATE IMPROVEMENTS AND FACILITIES IN DEFINED AREAS  
4-3 OR DESIGNATED PROPERTY. On adoption of the proposed plan [plans] as  
4-4 provided by this subchapter [Section 54.804 of this code] and voter  
4-5 approval of the imposition of taxes and issuance of bonds [the  
4-6 plans], the district, under the limitations of this subchapter, may  
4-7 apply separately, differently, equitably, and specifically its  
4-8 taxing power and lien authority to the defined area or designated  
4-9 property to provide money to construct, administer, maintain, and  
4-10 operate improvements and facilities that primarily benefit the  
4-11 defined area or designated property.

4-12 SECTION 14. Section 54.806(a), Water Code, is amended to  
4-13 read as follows:

4-14 (a) Before bonds may be issued or taxes may be imposed for  
4-15 the defined area or designated property, the bonds or taxes [the  
4-16 adopted plans may become effective, they] must be approved by the  
4-17 voters in the defined area or within the boundaries of the  
4-18 designated property. The election shall be conducted as provided  
4-19 by Section 49.106 for an election to authorize the issuance of bonds  
4-20 or Section 49.107 for an election to authorize the imposition of an  
4-21 operation and maintenance tax.

4-22 SECTION 15. Section 54.809, Water Code, is amended to read  
4-23 as follows:

4-24 Sec. 54.809. ISSUANCE OF BONDS AND IMPOSITION [LEVY] OF TAX  
4-25 FOR DEFINED AREA OR DESIGNATED PROPERTY. After approval by the  
4-26 voters [the order is recorded], the district may issue [its] bonds  
4-27 and impose taxes to provide the specific plant, works, and  
4-28 facilities included in the engineer's report [plans adopted] for  
4-29 the defined area, or to serve the designated property [and shall  
4-30 provide the plant, works, and facilities].

4-31 SECTION 16. Section 54.812(b), Water Code, is amended to  
4-32 read as follows:

4-33 (b) The prescribed notice shall be inserted into the general  
4-34 notice after the first sentence and shall read substantially as  
4-35 follows: "The real property described below, which you are about to  
4-36 purchase, may [is] also be located within a defined [designated]  
4-37 area of the district and the [your] land may [will] be subject to  
4-38 defined area taxes in addition to the [a higher tax than] other  
4-39 taxes of [land within] the district. As of this date, the  
4-40 additional [Your] rate of taxes within the defined area is [will be  
4-41 higher by] \$\_\_\_\_\_ on each \$100 of assessed valuation [than land not  
4-42 within the designated area]."

4-43 SECTION 17. Section 6901.061(e), Special District Local  
4-44 Laws Code, is amended to read as follows:

4-45 (e) The district may not issue bonds or other obligations  
4-46 secured wholly or partly by ad valorem taxes to finance a project  
4-47 authorized by Subsection (b) unless the issuance is approved by a  
4-48 vote of a two-thirds majority of the voters of the defined area to  
4-49 be benefited by the project as provided by Subchapter J, Chapter 54,  
4-50 Water Code, voting at an election called for that purpose. ~~[The~~  
4-51 ~~simple majority vote approval required by Section 54.808(a), Water~~  
4-52 ~~Code, does not apply to an election under this subsection.]~~

4-53 SECTION 18. Section 8130.151(b), Special District Local  
4-54 Laws Code, is amended to read as follows:

4-55 (b) The district may not issue bonds or other obligations  
4-56 secured in whole or in part by ad valorem taxation to finance  
4-57 projects authorized by Section 8130.051 unless the issuance is  
4-58 approved by a vote of a two-thirds majority of the voters of the  
4-59 district or of the defined area to be benefited by the project as  
4-60 provided by Subchapter J, Chapter 54, Water Code, voting at an  
4-61 election called for that purpose. ~~[The simple majority vote~~  
4-62 ~~approval required by Section 54.808(a), Water Code, does not apply~~  
4-63 ~~to an election under this subsection.]~~

4-64 SECTION 19. Section 8176.151(b), Special District Local  
4-65 Laws Code, is amended to read as follows:

4-66 (b) The district may not issue bonds or other obligations  
4-67 secured wholly or partly by ad valorem taxation to finance projects  
4-68 authorized by Section 8176.051 unless the issuance is approved by a  
4-69 vote of a two-thirds majority of the voters in the district or of

5-1 the defined areas to be benefited by the project as provided by  
5-2 Subchapter J, Chapter 54, Water Code, voting at an election called  
5-3 for that purpose. ~~[The simple majority vote approval required by~~  
5-4 ~~Section 54.808(a), Water Code, does not apply to an election under~~  
5-5 ~~this subsection.]~~

5-6 SECTION 20. Section 8198.151(b), Special District Local  
5-7 Laws Code, is amended to read as follows:

5-8 (b) The district may not issue bonds or other obligations  
5-9 secured wholly or partly by ad valorem taxation to finance projects  
5-10 authorized by Section 8198.051 unless the issuance is approved by a  
5-11 vote of a two-thirds majority of the voters in the district or of  
5-12 the defined areas to be benefited by the project as provided by  
5-13 Subchapter J, Chapter 54, Water Code, voting at an election called  
5-14 for that purpose. ~~[The simple majority vote approval required by~~  
5-15 ~~Section 54.808(a), Water Code, does not apply to an election under~~  
5-16 ~~this subsection.]~~

5-17 SECTION 21. Section 8261.151(b), Special District Local  
5-18 Laws Code, is amended to read as follows:

5-19 (b) The district may not issue bonds or other obligations to  
5-20 finance projects authorized by Section 8261.051 unless the issuance  
5-21 is approved by a vote of a two-thirds majority of the district  
5-22 voters, or a two-thirds majority of voters in a defined area that  
5-23 will benefit from the project, as provided by Subchapter J, Chapter  
5-24 54, Water Code, voting at an election called for that purpose. ~~[The~~  
5-25 ~~simple majority vote approval required by Section 54.808(a), Water~~  
5-26 ~~Code, does not apply to an election under this section.]~~

5-27 SECTION 22. Section 8413.151(b), Special District Local  
5-28 Laws Code, is amended to read as follows:

5-29 (b) The district may not issue bonds or other obligations  
5-30 secured wholly or partly by ad valorem taxation to finance projects  
5-31 authorized by Section 8413.051 unless the issuance is approved by a  
5-32 vote of a two-thirds majority of the voters in the district or of  
5-33 the defined areas to be benefited by the project as provided by  
5-34 Subchapter J, Chapter 54, Water Code, voting at an election called  
5-35 for that purpose. ~~[The simple majority vote approval required by~~  
5-36 ~~Section 54.808(a), Water Code, does not apply to an election under~~  
5-37 ~~this subsection.]~~

5-38 SECTION 23. Section 8467.151(b), Special District Local  
5-39 Laws Code, is amended to read as follows:

5-40 (b) The district may not issue bonds or other obligations  
5-41 secured wholly or partly by ad valorem taxation to finance projects  
5-42 authorized by Section 8467.053 unless the issuance is approved by a  
5-43 vote of a two-thirds majority of the voters in the district or of  
5-44 the defined areas to be benefited by the project as provided by  
5-45 Subchapter J, Chapter 54, Water Code, voting at an election called  
5-46 for that purpose. ~~[The simple majority vote approval required by~~  
5-47 ~~Section 54.808(a), Water Code, does not apply to an election under~~  
5-48 ~~this subsection.]~~

5-49 SECTION 24. Sections 54.234(b), 54.803, 54.804(a), 54.807,  
5-50 and 54.808, Water Code, are repealed.

5-51 SECTION 25. Section 54.022, Water Code, as amended by this  
5-52 Act, does not affect the entitlement of a temporary director  
5-53 serving on the board of directors of a municipal utility district  
5-54 under Chapter 54, Water Code, immediately before the effective date  
5-55 of this Act to continue to serve as a temporary director for the  
5-56 remainder of the director's term.

5-57 SECTION 26. The changes in law made by this Act to Chapter  
5-58 54, Water Code, apply only to a water district's conversion into a  
5-59 municipal utility district operating under Chapter 54, Water Code,  
5-60 occurring on or after the effective date of this Act. A conversion  
5-61 that occurs before the effective date of this Act is governed by the  
5-62 law in effect on the date the conversion occurred, and the former  
5-63 law is continued in effect for that purpose.

5-64 SECTION 27. This Act takes effect September 1, 2019.