

House Bill 2590
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (CS)

CONFERENCE

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 [†] 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 of the political subdivision or the inclusion of the land in a political subdivision. The commission shall allow creation or confirmation of the creation of the political subdivision or inclusion of the land in a proposed political subdivision on finding that the municipality either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. The commitment must provide that construction of the facilities necessary to serve the land will begin within two

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years and will be substantially completed within 4-1/2 years after the date the petition was filed with the municipality.

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

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

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

(d) The proposition in an operation and maintenance tax election may be for a specific maximum rate or for an

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unlimited rate. The ballot for an operation and maintenance tax election shall be printed to provide for voting for or against the proposition: "An Operation and Maintenance Tax" and either "Not to exceed (\$) Per One Hundred Dollars (\$100) Valuation of Taxable Property" or "At an Unlimited Rate," as applicable. The ballot may describe the general purpose and state the constitutional authorization of the operation and maintenance tax.

No equivalent provision.

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

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

SECTION 1. Section 54.022, Water Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) After the hearing held under Subsection (b), the governing body of the converting district may adopt and enter in the minutes of the governing body a resolution declaring that in the judgment of the governing body, conversion under that subsection [;] would serve the best interest of the district and would be a benefit to the land and property included in the district. The resolution shall also request that the commission approve [to hold a hearing on the question of] the conversion of the district.

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

(1) filed with the commission; and

(2) mailed to each state senator and representative who represents the area in which the district is located.

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

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

SECTION 4. Section 54.033(a), Water Code, is amended to read as follows:

(a) After receiving a request for the approval of a conversion under Section 54.030(d) [a hearing], if the commission finds

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

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

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

(1) filed with the commission; and

(2) mailed to each state senator and representative who represents the area in which the district is located.

SECTION 6. Same as House version.

SECTION 7. Same as House version.

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that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, the commission [†] shall enter an order making this finding and the district shall become a district operating under this chapter and no confirmation election is [~~shall be~~] required.

No equivalent provision.

No equivalent provision.

No equivalent provision.

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

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

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

Sec. 54.2351. CONTRACTS WITH OTHER DISTRICTS, [~~OR~~] WATER SUPPLY CORPORATIONS, OR OTHER RETAIL PUBLIC UTILITIES.

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

(i) In this subsection, "retail public utility" has the meaning assigned by Section 13.002. A district may enter into a contract with a retail public utility for water or sewer service

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under which the retail public utility may use the district's water or sewer system to serve customers located in the district.

No equivalent provision.

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

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

No equivalent provision.

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

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

No equivalent provision.

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

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

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separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property to provide money to construct, administer, maintain, and operate improvements and facilities that primarily benefit the defined area or designated property.

No equivalent provision.

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

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

No equivalent provision.

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

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

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

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

No equivalent provision.

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

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

No equivalent provision.

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

(b) The district may not issue bonds or other obligations secured in whole or in part by ad valorem taxation to finance

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projects authorized by Section 8130.051 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district or of the defined area to be benefited by the project as provided by Subchapter J, Chapter 54, Water Code, voting at an election called for that purpose. ~~[The simple majority vote approval required by Section 54.808(a), Water Code, does not apply to an election under this subsection.]~~

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

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

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

(b) The district may not issue bonds or other obligations secured wholly or partly by ad valorem taxation to finance projects authorized by Section 8198.051 unless the issuance is approved by a vote of a two-thirds majority of the voters in the district or of the defined areas to be benefited by the project as provided by Subchapter J, Chapter 54, Water

No equivalent provision.

No equivalent provision.

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

No equivalent provision.

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

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

No equivalent provision.

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

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

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

SECTION 6. The changes in law made by this Act apply only to a water district's conversion into a municipal utility district operating under Chapter 54, Water Code, occurring on or after the effective date of this Act. A conversion that occurs before the effective date of this Act is governed by

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

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

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

SECTION 25. Same as House version.

SECTION 26. The changes in law made by this Act ~~to Chapter 54, Water Code,~~ apply only to a water district's conversion into a municipal utility district operating under Chapter 54, Water Code, occurring on or after the effective date of this Act. A conversion that occurs before the effective date of this Act is governed by the law in effect on

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the law in effect on the date the conversion occurred, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2019.

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the date the conversion occurred, and the former law is continued in effect for that purpose.

SECTION 27. Same as House version.

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