

BILL ANALYSIS

C.S.H.B. 5406
By: Rogers
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Continuing development and growth in North Central Texas, including in Stephens, Palo Pinto, and Parker Counties, has created the need for large-scale, permanent improvements such as water supply and distribution facilities, wastewater collection and treatment facilities, and drainage and flood control projects. C.S.H.B. 5406 seeks to address this need by creating the Cross Timbers Regional Utility Authority.

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.H.B. 5406 amends the Special District Local Laws Code to create the Cross Timbers Regional Utility Authority, a conservation and reclamation district that is initially composed of all of the territory contained in Palo Pinto County, Parker County, and Stephens County. The bill sets out findings of benefit and public purpose regarding the authority.

C.S.H.B. 5406 sets out provisions relating to the authority's board of directors, which is composed of seven directors appointed by the commissioners courts of Palo Pinto, Parker, and Stephens Counties and the city council of the City of Mineral Wells. The bill prohibits an officer, employee, or member of an appointing entity or of a political subdivision located in the authority from being a director. The bill requires the commissioners courts and the city council, not later than the 45th day after the bill's effective date, to appoint the initial board and provides for the terms of the initial directors and for the selection of the initial presiding officer of the board.

C.S.H.B. 5406, except as otherwise provided, grants the authority the powers of a municipal utility district, including those conferred by specified provisions, including the Regional Waste Disposal Act. The bill authorizes the authority to do the following:

- operate, control, purchase, construct, lease, or acquire, inside or outside authority boundaries, property, works, facilities, or improvements, whether previously existing or to be made, constructed, or acquired, that the board finds necessary to carry out the authority's powers; and
- acquire, develop, and use rights to groundwater or surface water.

C.S.H.B. 5406 authorizes the authority, for purposes of carrying out an authority power or purpose and in an applicable manner, to exercise the power of eminent domain to acquire land,

an easement, or other property inside or outside the authority's boundaries. The bill prohibits the authority from exercising the power of eminent domain to acquire land owned by a municipal water district that the district has acquired as a surface water reservoir site. These provisions of the bill take effect only if the bill receives a two-thirds vote of all the members elected to each house. If the bill does not receive such a vote, the authority is expressly prohibited from exercising the power of eminent domain.

C.S.H.B. 5406 authorizes the authority to enter into a contract with a person, including a political subdivision, on terms the board considers desirable, fair, and advantageous for the following:

- the purchase or sale of raw or treated water;
- the purchase, lease, use, management, control, or operation of water treatment or distribution facilities or sewer collection and treatment facilities, all or part of the facilities or systems owned by the other political subdivision, in accordance with terms mutually agreed on by the governing bodies of the contracting parties; or
- planning, making preliminary surveys, investigations, or feasibility reports, engineering, or reports of any kind.

The bill authorizes a contract for the acquisition of an existing water or sewer facility to be made on terms approved by the contracting parties. The bill authorizes the board, if changes in plans or specifications are necessary after performance of a construction contract begins, to approve change orders necessary to decrease or increase the amount of materials, equipment, or supplies to be provided under the contract or the amount of work to be performed, but prohibits the total cost of the change orders from increasing the original contract price by more than 25 percent.

C.S.H.B. 5406 authorizes the authority and a municipal corporation or other political subdivision to enter into a water, sewer, solid waste, or drainage contract or any combination of those contracts without the necessity of an election by any contracting party to approve the contract. The bill establishes that a payment by a municipal corporation for the purchase of water or the treatment and disposal of sewage is a maintenance and operating expense of the utility system or combined systems of the municipal corporation unless the contract either provides for the municipal corporation to acquire an ownership interest in the facilities or makes other provisions.

C.S.H.B. 5406 prohibits the authority from imposing a tax but authorizes the authority to issue revenue bonds to carry out any of its powers, functions, or obligations. The bill authorizes the authority, if it operates a facility under contract with a municipal corporation and if the contract permits the issuance, to issue bonds to improve or extend the facility.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5406 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions absent in the introduced that prohibit the following:

- an officer, employee, or member of a political subdivision located in the authority from being a director of the authority; and
- the authority from exercising the power of eminent domain to acquire land owned by a municipal water district that the district has acquired as a surface water reservoir site.