88R4601 DIO-F

By:  Guillen H.B. No. 2701

A BILL TO BE ENTITLED

AN ACT

relating to the powers of a public utility agency; providing authority to issue bonds; providing authority to impose assessments.

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

SECTION 1.  Section 572.012(a), Local Government Code, is amended to read as follows:

(a)  Each participating public entity may:

(1)  use the entity's money to plan, acquire, construct, own, operate, and maintain its interest in a facility;

(2)  share in the facility;

(3)  issue bonds and other securities to raise money for a purpose described by Subdivision (1) in the same manner and to the same extent and subject to the same conditions as would be applicable if the public entity had sole ownership of the facility;

(4)  acquire, for the use and benefit of each participating public entity, land, easements, and property for a facility by purchase or by exercising the power of eminent domain; [~~and~~]

(5)  transfer or otherwise convey the land, property, or property interest or otherwise have the land, property, or property interest become vested in other participating public entities to the extent and in the manner agreed between the entities;

(6)  make an acquisition described by Subdivision (4) through a purchase from a public or private entity; and

(7)  for the use and benefit of each participating public entity, acquire by purchase a public utility, as defined by Section 13.002, Water Code, other than an affected county.

SECTION 2.  Sections 572.051(2) and (3), Local Government Code, are amended to read as follows:

(2)  "Obligation" means a [~~revenue~~] bond or note secured by a revenue, fee, charge, assessment, or other revenue of an agency available for that purpose.

(3)  "Public utility agency" means an agency created under this subchapter by two or more public entities to acquire, plan, finance, construct, own, operate, or maintain facilities.

SECTION 3.  Section 572.053, Local Government Code, is amended to read as follows:

Sec. 572.053.  CHANGES IN PUBLIC ENTITIES PARTICIPATING IN PUBLIC UTILITY AGENCY. (a) The public entities that participate in a public utility agency may by concurrent ordinances add a public entity to, or delete a public entity from, participation in the public utility agency.

(b)  A participating public entity may withdraw from a public utility agency by providing an ordinance or resolution of the governing body of the participating public entity to the agency not later than the 180th day before the proposed date of withdrawal. A participating public entity may not withdraw from a public utility agency under this subsection if bonds, notes, or other obligations of the agency are secured by the revenues of the participating public entity, unless the agency adopts a resolution approving the withdrawal. Upon withdrawal, a participating public entity assumes the outstanding debt attributable to that entity from the agency on a prorated basis equal to that entity's benefit and has, without compensation from the agency, no further rights, duties, or obligations relating to the agency or ability to receive service from the facilities of the agency.

SECTION 4.  Section 572.058, Local Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b)  A public utility agency may:

(1)  perform any act necessary to the full exercise of the agency's powers, including acts necessary to acquire, finance, own, operate, or manage a facility of the agency;

(2)  enter into a contract, lease, or agreement, including an interlocal contract as authorized by Chapter 791, Government Code, with or accept a grant or loan from any of the following entities for the management and operation of an agency facility or the acquisition, construction, financing, maintenance, operation, provision, or receipt of a facility, service, or product [~~a~~]:

(A)  a department or agency of the United States;

(B)  a department, agency, or municipality or other political subdivision of this state; or

(C)  a public or private corporation or person;

(3)  sell, lease, convey, or otherwise dispose of all or a portion of any right, interest, or property the agency considers to be unnecessary for the efficient operation or maintenance of its facilities; and

(4)  adopt rules to govern the operation of the agency and its employees, facilities, and service.

(c)  Except as limited by a concurrent ordinance under which the public utility agency is created, an agency may exercise any right or power granted by general law to a county or municipality or a district or authority created under Section 59, Article XVI, Texas Constitution, to accomplish the purposes of the agency, including issuing bonds payable from special assessments in the manner provided by Chapter 372. This subsection does not authorize a public utility agency to impose a tax.

SECTION 5.  Section 572.062, Local Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (b-2) to read as follows:

(a)  A public utility agency may:

(1)  issue obligations, including anticipation notes, to accomplish the purposes of the agency; and

(2)  finance or refund the acquisition, construction, expansion, and improvement of all or a portion of a facility relating to an agency purpose.

(b)  Except as provided by Subsection (b-1), the [~~The~~] public utility agency may pledge to the payment of the obligations the revenue of all or part of its facilities, including facilities acquired after the obligations are issued:

(1)  revenues received from a public entity by contract as authorized by a concurrent ordinance;

(2)  special assessments:

(A)  imposed by the agency in the manner provided by Chapter 372; or

(B)  imposed by a public entity and provided by contract to the agency; or

(3)  any other funds of the agency.

(b-1)  Operation [~~However, operation~~] and maintenance expenses, including salaries and labor, materials, and repairs of facilities necessary to render efficient service, are a first lien on and charge against the pledged revenue.

(b-2)  A public utility agency may not use a facility owned by the agency to secure or collateralize a new facility without the approval by resolution of each participating public entity participating in the joint financing of the new facility. This subsection does not apply to the use of revenue from a facility owned by the agency to secure or collateralize a new facility.

SECTION 6.  Subchapter C, Chapter 572, Local Government Code, is amended by adding Section 572.065 to read as follows:

Sec. 572.065.  LIABILITY. Liability for the facilities and management of the agency must be transferred to the agency on ownership of the facilities by the agency.

SECTION 7.  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 III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.