

By: Guillen

H.B. No. 2701

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the powers of a public utility agency; providing  
3 authority to issue bonds; providing authority to impose  
4 assessments.

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

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

8 (a) Each participating public entity may:

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

11 (2) share in the facility;

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

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

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

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

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

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

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

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

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

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

21           (b) A participating public entity may withdraw from a public  
22 utility agency by providing an ordinance or resolution of the  
23 governing body of the participating public entity to the agency not  
24 later than the 180th day before the proposed date of withdrawal. A  
25 participating public entity may not withdraw from a public utility  
26 agency under this subsection if bonds, notes, or other obligations  
27 of the agency are secured by the revenues of the participating

1 public entity, unless the agency adopts a resolution approving the  
2 withdrawal. Upon withdrawal, a participating public entity assumes  
3 the outstanding debt attributable to that entity from the agency on  
4 a prorated basis equal to that entity's benefit and has, without  
5 compensation from the agency, no further rights, duties, or  
6 obligations relating to the agency or ability to receive service  
7 from the facilities of the agency.

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

11 (b) A public utility agency may:

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

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

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

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

25 (C) a public or private corporation or person;

26 (3) sell, lease, convey, or otherwise dispose of all  
27 or a portion of any right, interest, or property the agency

1 considers to be unnecessary for the efficient operation or  
2 maintenance of its facilities; and

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

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

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

16 (a) A public utility agency may:

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

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

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

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

1           (2) special assessments:

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

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

6           (3) any other funds of the agency.

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

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

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

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

22           SECTION 7. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2023.