

BILL ANALYSIS

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S.B. 1169
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1169 expands the authority of public utility agencies (PUAs) in Texas by clarifying their ability to issue bonds, impose assessments, and secure funding for infrastructure projects. Under current law, PUAs operate as independent political entities with corporate powers similar to municipal retail utilities, but their financial tools are limited.

Current law does not explicitly authorize PUAs to leverage financing from the North American Development Bank (NADB), which provides funding for water and environmental infrastructure projects. Additionally, the process for municipalities to join or withdraw from PUAs is regulated but lacks streamlined procedures, making regional cooperation more complex. Ratepayers currently have limited ability to appeal rate increases imposed by PUAs, as there is no clear statutory provision allowing for direct appeals to the Public Utility Commission of Texas (PUC).

S.B. 1169 modifies the Local Government Code and the Water Code to allow PUAs to issue revenue bonds and anticipation notes, reducing reliance on state funding. The bill grants PUAs the authority to impose special assessments to generate revenue for infrastructure projects. It also explicitly permits PUAs to access financing from NADB, expanding their ability to secure funds for water and utility improvements.

The legislation refines the process for adding or withdrawing public entities from PUAs, facilitating regional collaboration and efficiency in utility service management. Additionally, S.B. 1169 introduces consumer protections by establishing a statutory right for ratepayers to appeal rate increases to the PUC.

By granting PUAs expanded financial tools and regulatory clarity, S.B. 1169 addresses existing limitations in funding mechanisms and governance structures. The bill provides a framework for improving infrastructure financing while maintaining oversight to ensure compliance with state regulations.

As proposed, S.B. 1169 amends current law relating to public utility agencies, provides authority to issue bonds, and provides authority to impose assessments.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 12 (Section 13.242, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 572.001(3), Local Government Code, to redefine "public entity."

SECTION 2. Amends Section 572.012(a), Local Government Code, as follows:

- (a) Authorizes each participating public entity to take certain actions, including making an acquisition described by Subdivision (4) (relating to acquisitions for the use and benefit for each participating entity) through a purchase from a public or private entity and, for the use and benefit of each participating public entity, acquiring by purchase a

public utility as defined by Section 13.002 (Definitions), Water Code, other than an affected county.

SECTION 3. Amends Sections 572.051(2) and (3), Local Government Code, to redefine "obligation" and "public utility agency."

SECTION 4. Amends Sections 572.052(c) and (d), Local Government Code, as follows:

(c) Provides that a public utility agency is a separate agency, political subdivision of this state, political entity and corporate body, and retail public utility for the purposes of Chapter 13 (Water Rates and Services), Water Code. Makes nonsubstantive changes.

(d) Prohibits a public utility agency from imposing a tax but has all the other powers and obligations that are related to facilities and that are provided by law to a municipality that owns a facility, except as provided by Section 572.061 (Rates and Charges).

SECTION 5. Amends Section 572.053, Local Government Code, as follows:

Sec. 572.053. CHANGES IN PUBLIC ENTITIES PARTICIPATING IN PUBLIC UTILITY AGENCY. (a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes a participating public entity to 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. Prohibits a participating public entity from withdrawing 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. Provides that, 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 6. Amends Section 572.058, Local Government Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes a public utility agency to:

(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 (Interlocal Cooperation Contracts), Government Code, with or accept a grant or loan from certain 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;

(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) makes no changes to this subdivision.

Makes nonsubstantive changes to this subsection.

(c) Authorizes a public utility agency, except as limited by a concurrent ordinance under which the agency is created, to exercise any right or power granted by general law to a

county or municipality or a district or authority created under Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized), Article XVI (General Provisions), Texas Constitution, to accomplish the purposes of the agency, including issuing bonds payable from special assessments in the manner provided by Chapter 372 (Improvement Districts in Municipalities and Counties). Provides that this subsection does not authorize a public utility agency to impose a tax.

SECTION 7. Amends Sections 572.061(d) and (e), Local Government Code, as follows:

(d) Provides that, notwithstanding Subsection (a) (relating to requiring a public utility agency to charge sufficient rates to produce revenue adequate to fulfill certain obligations), the Public Utility Commission of Texas (PUC) has appellate jurisdiction over the rates and charges of a public utility agency in the manner provided by Section 13.043 (Appellate Jurisdiction), Water Code. Deletes existing text providing that, notwithstanding Subsection (a), the state reserves its power to regulate and control the rates and charges by a public utility agency in the manner provided by Section 13.043.

(e) Provides that this state pledges to and agrees with the purchasers and successive holders of obligations issued under Subchapter C (Public Utility Agencies) that in any appeal proceeding regarding the public utility agency conducted under Section 13.043, Water Code, the PUC will establish rates and charges that will produce revenue sufficient to pay for those items specified in certain subsections and any other obligations of the agency in connection with those items. Deletes existing text providing that, until obligations issued under this subchapter have been paid and discharged, this state pledges to and agrees with the purchasers and successive holders of the obligations that it will not limit or alter the powers of the agency to establish and collect rates and charges that will produce sufficient to pay for those items specified in certain subsections and any other obligations of the agency in connection with those items.

SECTION 8. Amends Section 572.062, Local Government Code, by amending Subsections (a) and (b) and adding Subsections (b-1) and (b-2), as follows:

(a) Authorizes a public utility agency to issue obligations, including anticipation notes, to accomplish the purposes of the agency and finance or refund the acquisition, construction, expansion, and improvement of all or a portion of a facility relating to an agency purpose. Makes nonsubstantive changes.

(b) Authorizes the public utility agency, except as provided by Subsection (b-1) (relating to providing that operation and maintenance expenses are a first lien on and charge against pledged revenue), to pledge to the payment of the obligations:

- (1) creates this subdivision from existing text and makes a nonsubstantive change;
- (2) revenues received from a public entity by contract as authorized by a concurrent ordinance;
- (3) special assessments imposed by the agency in the manner provided by Chapter 372 or imposed by a public entity and provided by contract to the agency; or
- (4) any other funds of the agency.

Makes a nonsubstantive change to this subsection.

(b-1) Creates this subsection from existing text and makes a nonsubstantive change.

(b-2) Prohibits a public utility agency from using 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. Provides that 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 9. Amends Subchapter C, Chapter 572, Local Government Code, by adding Sections 572.065 and 572.066, as follows:

Sec. 572.065. **LIABILITY.** Requires that liability for the facilities and management of the public utility agency be transferred to the agency on ownership of the facilities by the agency.

Sec. 572.066. **INFRASTRUCTURE INVESTMENTS.** Authorizes a public utility agency to create a funding mechanism to jointly invest in and leverage funding for water infrastructure in Texas with the North American Development Bank.

SECTION 10. Amends Section 13.002, Water Code, by adding Subdivision (16-a) and amending Subdivisions (19) and (23) to define "public utility agency" and to redefine "retail public utility," "water and sewer utility," "public utility," and "utility."

SECTION 11. Amends Section 13.043, Water Code, by amending Subsections (b), (c), and (i) and adding Subsections (i-1) and (j-1), as follows:

(b) Authorizes ratepayers of certain entities, including a public utility agency, to appeal the decision of the governing body of the entity affecting their water, drainage, or sewer rates to the PUC. Makes nonsubstantive changes.

(c) Makes a conforming change to this subsection.

(i) Requires the governing body of a municipally owned utility or a political subdivision, other than a public utility agency, within 60 days after the date of a final decision on a rate change, to provide individual written notice to each ratepayer eligible to appeal who resides outside the boundaries of the municipality or the political subdivision.

(i-1) Requires the board of directors of a public utility agency, within 60 days after the date of a final decision on a rate change, to provide individual written notice to each ratepayer eligible to appeal the rates. Requires that the notice include, at a minimum, the effective date of the new rates, the new rates, and the location where additional information on rates can be obtained. Authorizes the board of directors of a public utility agency to provide the notice electronically if the agency has access to a ratepayer's email address.

(j-1) Requires the PUC, notwithstanding Subsection (j) (relating to requiring the PUC to ensure that every appealed rate is just and reasonable), in an appeal under this section of a rate charged by a public utility agency, to ensure that the rate complies with Section 572.061(e), Local Government Code.

SECTION 12. Amends Section 13.242, Water Code, by adding Subsection (e), to authorize the PUC by rule to allow a public utility agency that includes a water supply or sewer service corporation as a participant in the agency to render retail water or sewer service without a certificate of public convenience and necessity.

SECTION 13. Effective date: upon passage or September 1, 2025.