

BILL ANALYSIS

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C.S.S.B. 1169
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Water, Agriculture and Rural Affairs
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Committee Report (Substituted)

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.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1169 amends current law relating to the provision of water or sewer service by public entities operating jointly or concurrently.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 14 (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(b), Local Government Code, 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.

SECTION 7. Amends Subchapter C, Chapter 572, Local Government Code, by adding Section 572.0581, as follows:

Sec. 572.0581. NO POWER OF EMINENT DOMAIN. Provides that, except as provided by Section 572.0585 (Eminent Domain in Certain Counties), a public utility agency does not have the power of eminent domain.

SECTION 8. 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 9. 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 10. 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 11. Amends Chapter 572, Local Government Code, by adding Subchapter D, as follows:

SUBCHAPTER D. RECEIVERSHIP AND TEMPORARY MANAGEMENT

Sec. 572.101. **DEFINITIONS.** Defines "commission," "utility," "water supply or sewer service corporation," and "utility commission."

Sec. 572.102. **APPLICABILITY; JURISDICTION.** (a) Provides that, for purposes of this subchapter, a reference in Chapter 13, Water Code, to a person includes a public utility agency.

(b) Provides that, for purposes of this subchapter, the PUC has the same jurisdiction over a water supply or sewer service corporation that the PUC has over a utility in Chapter 13, Water Code.

Sec. 572.103. **RECEIVERSHIP.** (a) Requires the attorney general, at the request of the PUC or the Texas Commission on Environmental Quality (TCEQ), to bring suit for the appointment of a receiver that is a public utility agency in the manner provided by Section 13.412 (Receivership), Water Code, to collect the assets and carry on the business of a utility or water supply or sewer service corporation that meets certain requirements.

(b) Requires the PUC, to facilitate the regionalization of water and sewer service, to prioritize an application submitted under Section 13.412(g) (relating to authorizing a receiver appointed under this section to seek approval from the PUC and TCEQ to acquire the water or sewer utility's facilities), Water Code, by a public utility agency. Requires the PUC to issue an order approving the acquisition proposed in the application not later than the 120th day after the date the PUC determines the application is complete.

Sec. 572.104. **TEMPORARY MANAGEMENT.** Authorizes the PUC or TCEQ, after providing to the utility or water supply or sewer service corporation notice and an opportunity to be heard by the commissioners at a PUC or TCEQ meeting, to authorize a public utility agency to temporarily manage and operate a utility or water supply or sewer service corporation in the manner provided by Section 13.4132 (Operation of Utility that Discontinues Operation or is Referred for Appointment of Receiver), Water Code, if the utility or corporation meets certain requirements.

SECTION 12. 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 13. 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 14. 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 15. Effective date: upon passage or September 1, 2025.