

BILL ANALYSIS

S.B. 1194
By: Flores
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that the growing population in Central Texas is creating issues regarding water availability in the area and that while Belton Lake has stood as a water supply source for residents since 1954, population growth has put that source at risk. Thus, if significant investment in water supply and infrastructure is not made, the area will face dire water supply challenges. The sponsor further informed the committee that the area is primarily composed of small water producers who have found it difficult for any one entity to successfully apply for and receive Texas Water Development Board funding when compared to larger entities and that with the creation of the New Water Supply for Texas Fund and further investments in water supply incoming, water entities in Bell, Coryell, Falls, Lampasas, and McLennan Counties have found it wise to combine efforts and pursue water supply projects as a region. S.B. 1194 seeks to further these efforts by creating the Central Texas Water Alliance in order to provide for collaboration to help solve water supply challenges in the area.

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

S.B. 1194 amends the Special District Local Laws Code to create the Central Texas Water Alliance, which is a regional water authority created under and essential to accomplish the purposes of specified Texas Constitution provisions relating to the conservation and development of natural resources and providing for conservation and reclamation districts. The initial sponsors of the alliance are the following:

- Bell County;
- Bell County Water Control and Improvement District No. 1;
- Clearwater Underground Water Conservation District; and
- McLennan County.

The bill establishes that the territory of the alliance is composed of the following territory:

- territory of the sponsors, including territory within the municipal boundaries of a sponsor that is a municipality;
- if applicable, territory located in the service areas of the sponsors, including the territory within the sponsors' certificates of convenience and necessity; and
- territory added to and not excluded from the alliance in accordance with applicable law.

The bill provides for a petition method for adding and removing alliance sponsors. The bill defines the following terms:

- "sponsor" as the alliance's initial sponsors and a local government or private entity added to the alliance as a member;
- "local government" as any of the following entities:
 - a municipality, county, district, or other political subdivision of the state;
 - a local government corporation;
 - a nonprofit corporation created to act on behalf of a local government; or
 - a combination of two or more of these listed entities;
- "district" as any district or authority created under specified provisions of the Texas Constitution, regardless of the manner of creation; and
- "private entity" as including an individual, corporation, organization, business trust, estate, trust, partnership, and association and any other legal entity that is not a governmental body or agency.

The bill sets out provisions relating to findings of public purpose and benefit regarding the alliance and the liberal construction of the bill's provisions.

Board of Directors

S.B. 1194 establishes that, except for the initial board of directors, the alliance is governed by a board of directors consisting of at least 5 and not more than 18 members, with each sponsor entitled to appoint at least one director. The board is responsible for the management, operation, and control of the alliance. The bill requires the board by rule to establish the number of directors of the alliance and apportion the directors for each sponsor based on the amount of water contracted to be supplied to the sponsor under the terms of the alliance's water supply contract with the sponsor. The bill specifies that the term "water" includes the following:

- groundwater, percolating or otherwise, notwithstanding the quality of the groundwater;
- any surface water, naturally or artificially impounded or in a navigable or nonnavigable watercourse; and
- municipal wastewater or industrial wastewater, including municipal wastewater or industrial wastewater that has been treated to a quality suitable for reuse for a beneficial use.

The bill requires each director to be appointed by the governing body of a sponsor in accordance with board rules that govern the apportionment of directors among the sponsors and requires each sponsor to appoint the appropriate number of directors not earlier than January 1 and not later than February 28 of each year. The bill requires the sponsors to appoint the initial directors not earlier than 30 days and not later than 90 days after the bill's effective date and requires the initial directors, as soon as practicable after their appointment, to draw lots to determine specified staggered terms. The bill requires the board, after the addition or removal of a sponsor, by rule to reapportion the directors of the alliance among the sponsors and authorizes the board to increase or decrease the number of directors on the board in accordance with the prescribed range of number of directors.

S.B. 1194 sets out provisions relating to the board, including provisions regarding director eligibility requirements, staggered three-year terms of office, removal of a director, and board vacancies. The bill entitles each director to one vote on any issue before the board, but authorizes the board to establish a graduated voting procedure after each sponsor has appointed a director to the board. The bill provides for the annual election of board officers and authorizes the board to meet as many times each year as the board considers appropriate. The bill establishes that a concurrence of a majority of the directors present and voting is sufficient for transacting any business of the alliance unless other applicable law, or the alliance by rule, requires a concurrence of a greater number of directors for a specific type of decision. The bill establishes that directors of the alliance are public officials and are entitled to governmental immunity for their actions in their capacity as directors and officers of the alliance.

S.B. 1194 requires a director appointed by a sponsor that has regulatory authority over an issue before the board to file, before a vote or decision on the issue, an affidavit stating the nature and extent of the regulatory authority and to abstain from any further participation on the issue. The

bill prohibits a director required to file such an affidavit from attending a closed meeting related to the applicable issue and, unless a majority of the directors are required to file an affidavit related to the issue, voting on a matter related to the issue.

Powers and Duties

S.B. 1194 authorizes the alliance to do the following:

- acquire, purchase, own, hold, lease, construct, improve, and maintain a reservoir, groundwater well, or other source of water supply, including the following:
 - groundwater, surface water, and wastewater reused directly or indirectly; and
 - aquifer storage and recovery facilities;
- acquire, own, construct, operate, repair, improve, maintain, or extend, inside or outside the alliance's boundaries, water and wastewater works, improvements, facilities, plants, pipelines, equipment, and appliances for the following:
 - the treatment and transportation of water and wastewater;
 - the direct or indirect reuse of wastewater;
 - aquifer storage and recovery projects; and
 - the provision of wholesale water and wastewater services to alliance customers, municipalities, districts, water supply corporations, and other persons in Texas;
- acquire, purchase, own, hold, lease, and maintain interests, including capacity rights and other contractual rights, in sources of water supply, reservoirs, groundwater wells, water and wastewater systems, treatment works, improvements, facilities, plants, equipment, appliances, aquifer storage and recovery projects, and the direct or indirect reuse of wastewater;
- finance any purchase or acquisition through a bond, note, or other obligation, or through a lease-purchase agreement; and
- sell, lease, convey, or otherwise dispose of any right, interest, or property the alliance considers to be unnecessary for the efficient operation or maintenance of the alliance's facilities.

The bill authorizes the alliance, in addition to the powers specifically provided by the bill's provisions, to exercise specified powers provided to a special utility district.

S.B. 1194 authorizes the alliance to adopt and enforce policies, rules, and bylaws reasonably required to implement the bill's provisions, including rules governing procedures before the board and rules regarding implementation, enforcement, and any other matters related to the exercise of the rights, powers, privileges, and functions conferred on the alliance by the bill's provisions for the provision of water and wastewater service.

S.B. 1194 authorizes the alliance by rule to develop, prepare, revise, adopt, implement, enforce, and manage water conservation or drought contingency plans for the alliance or any portion of the alliance.

S.B. 1194 authorizes a sponsor to convey a utility system facility or asset or the sponsor's interest in a utility system facility or asset to the alliance without holding an election to approve the conveyance. The bill exempts a sponsor from Government Code provisions relating to public securities for municipal utilities, parks, or pools that regard the conveyance, sale, or acquisition of a utility system, or any related works, improvements, facilities, plants, equipment, or appliances. The bill defines "utility system" by reference to those provisions.

S.B. 1194 authorizes the alliance to contract with any person to carry out a power authorized by the bill's provisions. The bill authorizes a person who enters into a contract with the alliance to pledge to the payment of the contract any source of revenue that may be available to the person, including property taxes, if the person has the authority to impose those taxes. The bill establishes that payments made under a contract with the alliance constitute an operating expense of the person served under the contract, unless otherwise prohibited by a previously outstanding obligation of the person. The bill establishes that, to the extent a person pledges

funds to the payment of the contract that are to be derived from the person's own water system, the payments constitute an operating expense of that system.

S.B. 1194 authorizes the alliance to enter into an interlocal contract with a local government under the Interlocal Cooperation Act to carry out a power of the alliance.

S.B. 1194 requires the alliance to establish rates and fees to be assessed against sponsors and customers of the alliance and authorizes the rates and fees to be established by classes of customers, by project, or by area of service. The bill requires a sponsor, local government, water supply corporation, private entity, or other person that contracts with the alliance to establish, charge, and collect fees, rates, charges, rentals, and other amounts for any service or facility provided under or in connection with a contract with the alliance and to pledge sufficient amounts to make all payments required under the contract.

S.B. 1194 authorizes the alliance to exercise the power of eminent domain to acquire a fee simple or other interest in property if the interest is necessary for the alliance to exercise the rights or authority conferred by the bill's provisions. The bill requires the alliance to exercise the right of eminent domain in the manner provided by applicable statutory provisions. The bill establishes that the alliance is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party. The bill prohibits the alliance from using the power of eminent domain for the condemnation of land for the purpose of acquiring rights to groundwater or for the purpose of acquiring water or water rights. The bill expressly prohibits the district from exercising the power of eminent domain if the bill does not receive a two-thirds vote of all the members elected to each house and establishes that this provision is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

General Financial Provisions

S.B. 1194 prohibits the alliance from imposing a property tax. The bill authorizes the alliance to apply for, accept, receive, and administer gifts, grants, loans, and other money available from any source.

Bonds, Notes, and Other Obligations

S.B. 1194 authorizes the alliance, in order to accomplish its purposes and in addition to bonds, notes, and other obligations that the alliance is authorized to issue under other law, to issue bonds, notes, or other obligations payable solely from and secured by all or part of any funds or any revenue from any source or sources, including the following:

- fees, rates, and other charges the alliance imposes or collects;
- the sale of the following:
 - water;
 - water or wastewater services;
 - water rights or capacity;
 - water transmission rights, capacity, or services;
 - water pumping;
 - wastewater reused directly or indirectly;
 - aquifer storage and recovery services;
 - sewer services; or
 - any other service or product of the alliance provided inside or outside its boundaries;
- grants or gifts;
- the ownership or operation of all or a designated part of the alliance's works, improvements, facilities, plants, or equipment; and
- the proceeds of contracts.

The bill sets out provisions relating to the alliance's obligations, including a provision authorizing the alliance to exercise any power of an issuer under public securities provisions of the Government Code relating to obligations for certain public improvements in connection with any alliance obligations. The bill establishes that the alliance is not required to hold an election to approve the issuance of revenue bonds or notes or of other obligations under the bill's applicable provisions.

S.B. 1194 authorizes the alliance, for the purposes of attorney general review and approval and in lieu of any other manner of demonstrating the ability to pay debt service and satisfy any other pecuniary obligations relating to bonds, notes, or other obligations, to demonstrate the alliance's ability to satisfy the debt service and those obligations using accumulated funds of the alliance and revenue and growth projections prepared by a professional utility rate consultant at the alliance's direction. The bill authorizes the revenue projections prepared by such a consultant to include forecast rate increases and accumulated and available fund balances as determined by the alliance if the resolution authorizing the issuance of the bonds, notes, or other obligations provides that the alliance intends to increase rates to the extent necessary to pay debt service and satisfy any other pecuniary obligations arising under the bonds, notes, or other obligations.

S.B. 1194 authorizes the alliance to issue refunding bonds, notes, and other obligations to refund any of its bonds, notes, or other obligations in any manner provided by law, including public securities provisions of the Government Code relating to refunding bonds.

S.B. 1194 exempts the following from taxation by the state or a political subdivision of the state:

- a bond, note, or other obligation issued under the bill's provisions;
- a transaction related to the bond, note, or other obligation;
- the interest on the bond, note, or other obligation; and
- the profit from the sale of the bond, note, or other obligation.

Procedural Provisions

S.B. 1194 establishes that all applicable requirements relating to the following have been fulfilled and accomplished with respect to the bill:

- the legal notice of intention to introduce;
- governor action;
- Texas Commission on Environmental Quality recommendations; and
- the state constitution and laws and legislative rules and procedures.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.