

BILL ANALYSIS

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S.B. 1194
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Water, Agriculture and Rural Affairs
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas is one of the fastest-growing states in the country, and the Central Texas region is at the forefront of that growth. This sudden and significant change in population creates ever-increasing issues surrounding water availability in the area. Since 1954, Lake Belton has stood as an abundant water supply for residents, but this growth has put that stability at risk. If significant investment in water supply and infrastructure is not made, the region faces dire water supply challenges.

The Central Texas area is primarily comprised of small water producers who have found it difficult for any one entity to successfully apply for and receive Texas Water Development Board (TWDB) funding when compared to larger entities. With the creation of the new water supply 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.

The Central Texas Water Alliance would not be the first of its kind. The 85th Legislature approved the creation of the Alliance Regional Water Authority (ARWA), which has been an outstanding success. The ARWA was able to secure about \$230 million in TWDB financial assistance to fund a pipeline and treatment project that will supply water to the cities of San Marcos, Kyle, and Buda.

S.B. 1194 establishes the Central Texas Water Alliance (CTWA) to collaboratively work to solve water supply challenges in Bell, Coryell, Falls, Lampasas, and McLennan counties. This bill would allow CTWA to develop water supplies and wastewater treatment for its sponsors on a wholesale basis. This bill will also permit CTWA to enter into contracts with non-sponsors for water or wastewater services, including partnerships with others in infrastructure capacity.

Finally, this bill would provide CTWA with the same power of eminent domain as those of its sponsors, while directing that this power could never be used to condemn and acquire private landowner water rights. It also would prohibit CTWA from imposing ad valorem taxes.

As proposed, S.B. 1194 amends current law relating to creating the Central Texas Water Alliance, provides authority to issue bonds, grants the power of eminent domain, and provides authority to impose fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to board of directors of the Central Texas Water Alliance in SECTION 1 (Sections 11020.0108 and 11020.0201, Special District Local Laws Code) of this bill.

Rulemaking authority is expressly granted to the Central Texas Water Alliance in SECTION 1 (Sections 11020.0302 and 11020.0304, Special District Local Laws Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle X, Title 6, Special District Local Laws Code, by adding Chapter 11020, as follows:

CHAPTER 11020. CENTRAL TEXAS WATER ALLIANCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11020.0101. DEFINITIONS. Defines "alliance," "board," "director," "district," "local government," "private entity," "sponsor," and "water."

Sec. 11020.0102. NATURE OF ALLIANCE. Provides that the Central Texas Water Alliance (alliance) is a regional water authority created under and essential to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation of Districts; Indebtedness and Taxation Authorized), Article XVI (General Provisions), Texas Constitution.

Sec. 11020.0103. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) Provides that the alliance is created to serve a public use and benefit.

(b) Provides that all land and other property included in the territory of the alliance will benefit from the works and projects to be accomplished by the alliance under powers conferred by Section 59, Article XVI, Texas Constitution, and powers granted under this chapter.

Sec. 11020.0104. ALLIANCE TERRITORY. Provides that the territory of the alliance is composed of certain territory of the sponsors.

Sec. 11020.0105. INITIAL SPONSORS. Provides that the initial sponsors of the alliance are Bell County, Bell County Water Control and Improvement District No. 1, Clearwater Underground Water Conservation District, and McLellan County.

Sec. 11020.0106. METHOD OF ADDING SPONSORS. (a) Authorizes a local government or a private entity to petition the board of directors of the alliance (board) to add that local government or private entity as a sponsor.

(b) Requires that a petition under Subsection (a) be submitted in the manner and form required by board rule.

(c) Requires the board, on receipt of a petition under Subsection (a), to set a hearing on the petition and provide notice of the date, time, place, and purpose of the hearing to the sponsors of the alliance and the petitioning local government or private entity.

(d) Requires the board, at the hearing, to determine whether the local government or private entity will benefit from being added to the alliance as a sponsor and whether it is in the best interest of the alliance to add the local government or private entity to the alliance as a sponsor.

(e) Requires the board, if, after a hearing on the petition, the board determines that the local government or private entity should be added to the alliance as a sponsor, to issue an order adding the local government or private entity to the alliance; adding the local government's or private entity's territory or service area to the territory of the alliance; making the local government's or private entity's territory or service area subject to the privileges, duties, assets, and financial obligations of the alliance to the same degree as other sponsors already included in the alliance; and stating the effective date of the order.

(f) Requires that the effective date of the order, if the subject of the order is a local government, allow enough time for the local government to comply with Subsection (g).

(g) Requires a local government that is the subject of an order issued under Subsection (e) to publish notice of the alliance's proposal to add the local government to the alliance as a sponsor. Requires that the notice be published in a newspaper of general circulation in the county in which the local government is located, be published at least once per week for two consecutive weeks and with the first publication appearing on or before the 14th day before the effective date of the order, and state the effective date of the order.

Sec. 11020.0107. METHOD OF REMOVING SPONSORS. (a) Authorizes the governing body of a sponsor to petition the board to remove the entity from the alliance as a sponsor.

(b) Requires that a petition be submitted in the manner and form required by board rule.

(c) Requires the board, after receiving a petition under Subsection (a), to decide whether the petitioning sponsor should be removed from the alliance as a sponsor and to by order approve, conditionally approve, or disapprove the petition.

(d) Prohibits the board from approving a petition submitted under this section if that action would impair or violate or conflict with the terms of any outstanding bonds, notes, or other obligations of the alliance.

(e) Requires that an order issued under Subsection (c) that approves or conditionally approves a sponsor's petition to be removed from the alliance as a sponsor address:

(1) all matters related to the removal as determined by the board, including the removal of the territory of the sponsor and, if applicable, territory located in the service area of the sponsor as provided by the sponsor's certificate of convenience and necessity; and

(2) if applicable, any conditions imposed by the board that the petitioning sponsor is required to satisfy before the board approves the petition, which are authorized to include:

(A) payment by the petitioning sponsor of all bonds, notes, or other obligations issued by the alliance on behalf of the sponsor;

(B) payment by the petitioning sponsor of the sponsor's pro rata share of any bond, note, or other obligation issued by the alliance, other than the bonds, notes, or other obligations described by Paragraph (A), if the payment is allowed under the terms of the bond, note, or other obligation;

(C) conditions related to the ownership or transfer of ownership of real property, facilities, equipment, personnel, and supplies; and

(D) conditions the alliance considers necessary for the winding up of activities in connection with the removal of the petitioning sponsor as a sponsor from the alliance.

(f) Provides that if the board by order issued under Subsection (c) conditionally approves a sponsor's petition, the petitioning sponsor remains a sponsor and is required to make all payments owed to the alliance when due and to satisfy all conditions included in the order. Requires the board to approve the petition immediately after all required payments to the alliance are received and all conditions included in the order are satisfied as determined by the board.

(g) Provides that the removal of a sponsor from the alliance under this section does not prohibit the former sponsor from contracting with the alliance for the provision of water supply, wastewater treatment, or other services provided by the alliance.

Sec. 11020.0108. REAPPORTIONMENT OF DIRECTORS. Requires the board, after the addition or removal of a sponsor under this subchapter, by rule to reapportion the directors of the alliance among the sponsors in accordance with Section 11020.0201(c)(2). Authorizes the board to increase or decrease the number of directors on the board in accordance with Section 11020.0201(a).

Sec. 11020.0109. LIBERAL CONSTRUCTION OF CHAPTER. Requires that this chapter be liberally construed to effect its purposes.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 11020.0201. DIRECTORS. (a) Provides that the alliance, except for the initial board of directors, is governed by a board of directors consisting of at least 5 and not more than 18 members.

(b) Provides that the board is responsible for the management, operation, and control of the alliance.

(c) Requires the board by rule to:

(1) establish the number of directors of the alliance; and

(2) 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, subject to Section 11020.0203(a).

Sec. 11020.0202. ELIGIBILITY TO SERVE AS DIRECTOR. (a) Requires a person, to be eligible to serve as a director, to meet certain requirements.

(b) Provides that a director who also serves on the governing body of a sponsor is not a dual officeholder and is not prohibited by the common law doctrine of incompatibility from serving on both the board and the governing body.

(c) Provides that service on the board by a public officeholder is an additional duty of that person's office.

Sec. 11020.0203. APPOINTMENT OF DIRECTORS. (a) Entitles each sponsor to appoint at least one director.

(b) Requires each director to be appointed by the governing body of a sponsor in accordance with the rules adopted under Section 11020.0201 that govern the apportionment of directors among the sponsors.

(c) Requires each sponsor to appoint the appropriate number of directors not earlier than January 1 and not later than February 28 of each year.

Sec. 11020.0204. TERMS OF OFFICE. (a) Provides that directors serve staggered three-year terms, with one-third or as near as possible to one-third of the members' terms expiring February 28 of each year.

(b) Provides that a director's term begins on March 1 of the year the director is appointed.

(c) Prohibits a director from serving more than five consecutive terms as a director.

Sec. 11020.0205. REMOVAL OF DIRECTOR. Authorizes a sponsor that appoints a director to remove the director from office at any time, with or without cause.

Sec. 11020.0206. BOARD VACANCY. Requires the governing body of the sponsor that appointed the director who vacated the office, if there is a vacancy on the board, to appoint a director to serve the remainder of the term.

Sec. 11020.0207. VOTING AUTHORITY. (a) Entitles each director, except as provided by Subsection (b), to one vote on any issue before the board.

(b) Authorizes the board to establish a graduated voting procedure after each sponsor has appointed a director to the board.

Sec. 11020.0208. OFFICERS. Requires the board, at the first meeting of the board after March 1 of each year, to elect officers for the alliance, including a chair, vice chair, secretary, and treasurer.

Sec. 11020.0209. MEETINGS AND ACTIONS OF BOARD; QUORUM. (a) Authorizes the board to meet as many times each year as the board considers appropriate.

(b) Provides 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.

(c) Provides that directors of the alliance are public officials and entitled to governmental immunity for their actions in their capacity as directors and officers of the alliance.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 11020.0301. GENERAL POWERS AND DUTIES. (a) Authorizes the alliance to:

(1) acquire, purchase, own, hold, lease, construct, improve, and maintain a reservoir, groundwater well, or other source of water supply, including groundwater, surface water, and wastewater reused directly or indirectly, and aquifer storage and recovery facilities;

(2) 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 certain purposes.

(3) 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;

(4) finance any purchase or acquisition through a bond, note, or other obligation under Subchapter E, or through a lease-purchase agreement; and

(5) 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.

(b) Authorizes the alliance, in addition to the powers specifically provided by this chapter, to exercise the powers provided by Section 65.201 (Powers), Water Code.

Sec. 11020.0302. ALLIANCE POLICIES, RULES, AND BYLAWS. Authorizes the alliance to adopt and enforce policies, rules, and bylaws reasonably required to implement this chapter, 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 this chapter for the provision of water and wastewater service.

Sec. 11020.0303. EMINENT DOMAIN. (a) 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 this chapter.

(b) Requires the alliance to exercise the right of eminent domain in the manner provided by Chapter 21 (Eminent Domain), Property Code. Provides 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.

(c) 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.

Sec. 11020.0304. WATER CONSERVATION OR DROUGHT CONTINGENCY PLANS. 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.

Sec. 11020.0305. SPONSOR CONVEYANCES AND ACQUISITIONS. (a) Defines "utility system."

(b) 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.

(c) Provides that a sponsor is exempt from the provisions of Chapter 1502 (Public Securities for Municipal Utilities, Parks, or Pools), Government Code, regarding the conveyance, sale, or acquisition of a utility system, or any related works, improvements, facilities, plants, equipment, or appliances.

Sec. 11020.0306. CONTRACTS. (a) Authorizes the alliance to contract with any person to carry out a power authorized by this chapter.

(b) 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 ad valorem taxes, if the person has the authority to impose those taxes.

(c) Provides 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. Provides that the payments, 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, constitute an operating expense of that system.

Sec. 11020.0307. COOPERATIVE CONTRACTS. Authorizes the alliance to enter into an interlocal contract with a local government under Chapter 791 (Interlocal Cooperation Contracts), Government Code, to carry out a power of the alliance.

Sec. 11020.0308. RATES AND FEES. (a) Requires the alliance to establish rates and fees to be assessed against sponsors and customers of the alliance. Authorizes the rates and fees to be established by classes of customers, by project, or by area of service.

(b) 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.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 11020.0401. AD VALOREM TAXES PROHIBITED. Prohibits the alliance from imposing an ad valorem tax.

Sec. 11020.0402. GIFTS, GRANTS, LOANS, AND OTHER MONEY. Authorizes the alliance to apply for, accept, receive, and administer gifts, grants, loans, and other money available from any source.

SUBCHAPTER E. BONDS, NOTES, AND OTHER OBLIGATIONS

Sec. 11020.0501. REVENUE BONDS, NOTES, AND OTHER OBLIGATIONS. (a) Authorizes the alliance, in addition to bonds, notes, and other obligations that the alliance is authorized to issue under other law, to accomplish the purposes of the alliance, 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:

- (1) fees, rates, and other charges the alliance imposes or collects;
- (2) the sale of water and certain services;
- (3) grants or gifts;
- (4) the ownership or operation of all or a designated part of the alliance's works, improvements, facilities, plants, or equipment; and
- (5) the proceeds of contracts.

(b) Authorizes bonds, notes, or other obligations issued by the alliance to be first or subordinate lien obligations at the board's discretion.

(c) Authorizes the alliance, in connection with any bonds, notes, or other obligations of the alliance, to exercise any power of an issuer under Chapter 1371 (Obligations for Certain Public Improvements), Government Code.

(d) Authorizes the alliance to conduct a public, private, or negotiated sale of the bonds, notes, or other obligations.

(e) Authorizes the alliance to enter into one or more indentures of trust to further secure its bonds, notes, or other obligations.

(f) Authorizes the alliance to issue bonds, notes, or other obligations in more than one series as necessary to carry out the purposes of this chapter. Authorizes the alliance, in issuing bonds, notes, or other obligations secured by revenue of the alliance, to reserve the right to issue additional bonds, notes, or other obligations secured by the alliance's revenue that are on parity with or are senior or subordinate to the bonds, notes, or other obligations issued earlier.

(g) Authorizes a resolution of the board or a trust indenture securing the bonds, notes, or other obligations to specify additional provisions that constitute a

contract between the alliance and the alliance's bondholders, noteholders, or other obligation holders.

(h) Authorizes bonds, notes, or other obligations to be additionally secured by deed of trust or mortgage on any or all of the alliance's facilities.

(i) Provides that the authority provided by this chapter for the authorization and issuance of bonds, notes, and other obligations is in addition to, and not in lieu of, the authority otherwise established under general law and is prohibited from being construed as a limitation on, or a modification of, general law providing for authorization and issuance of bonds, notes, and other forms of obligations. Authorizes nothing in this chapter to be construed as affecting any existing contract, bond, note, or other obligation of the alliance or any indenture, covenant, mortgage, or other agreement relating to them.

Sec. 11020.0502. ELECTION NOT REQUIRED. Provides that the alliance is not required to hold an election to approve the issuance of revenue bonds or notes or of other obligations under this subchapter.

Sec. 11020.0503. USE OF REVENUE AND GROWTH PROJECTIONS. 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 direction of the alliance. Authorizes the revenue projections prepared by a professional utility rate consultant, 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, to include forecast rate increases and accumulated and available fund balances as determined by the alliance.

Sec. 11020.0504. REFUNDING BONDS. 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 Chapter 1207 (Refunding Bonds), Government Code.

Sec. 11020.0505. BONDS, NOTES, AND OTHER OBLIGATIONS EXEMPT FROM TAXATION. Provides that a bond, note, or other obligation issued under this chapter, 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 are exempt from taxation by this state or a political subdivision of this state.

SECTION 2. (a) Requires the sponsors of the alliance, not earlier than 30 days and not later than 90 days after the effective date of this Act, to appoint the initial directors under Section 11020.0203, Special District Local Laws Code, as added by this Act.

(b) Requires the initial directors, as soon as practicable after the initial directors have been appointed under Section 11020.0203, Special District Local Laws Code, as added by this Act, to draw lots to determine which directors serve a one-year term expiring February 28, 2027, which directors serve a two-year term expiring February 28, 2028, and which directors serve a three-year term expiring February 28, 2029. Requires that the lots be split into thirds or as near to thirds as possible.

SECTION 3. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. (a) Provides that, if this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 11020, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 11020.0309, as follows:

Sec. 11020.0309. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

(b) Provides that this section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c) (relating to authorizing the legislature to enact certain laws granting the power of eminent domain to an entity), Article I (Bill of Rights), Texas Constitution.

SECTION 5. Effective date: upon passage or September 1, 2025.