

SUBJECT: Allowing certain water districts to issue bonds without TNRCC approval

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 6 ayes — Counts, Cook, Hamric, R. Lewis, Shields, Walker
0 nays
3 absent — T. King, Corte, Puente

WITNESSES: For — Claude King, City of Lewisville; Tom Leonard, Bright Farm Partnership
Against — None
On — Sam Jones, Texas Natural Resource Conservation Commission

BACKGROUND: Water Code, sec. 49.108 authorizes a water district to make payments under a contract from taxes other than operation and maintenance taxes if the contract provisions have been approved in an election by a majority of voters in the district. A contract under this section may provide that the district will make payment from proceeds from the sale of notes or bonds, from taxes, or from any other income of the district.

Under Water Code, sec. 49.108(e), added by the Legislature in 1997 (SB 1865 by Armbrister), if a water district enters into an obligation to collect taxes for debt for longer than three years, that district must obtain approval from the Texas Natural Resource Conservation Commission (TNRCC) so that TNRCC can determine whether the project to be financed by the bonds is feasible.

DIGEST: CSHB 2956 would allow a district located in a county with a population of 1.18 million or more — which, according to 1990 census figures, would include Harris, Dallas, and Bexar counties — or a district adjacent to such a county to conduct contract elections without obtaining TNRCC approval.

This exemption would apply only in cases in which:

- ! all land subject to the contract election was within the boundaries of a district that was party to an agreement before September 1, 1997, calling for the issuance of bonds for road and bridge improvements; and
- ! the contract was approved by a city that was party to the agreement.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

CSHB 2956 would allow contracts between fresh water supply districts, cities, and other entities that were entered into before 1997 to proceed as planned. Such contracts were made before the 75th Legislature enacted SB 1865 by Armbrister, which requires TNRCC approval for certain fresh water supply district contracts. CSHB 2956 would allow these contracts to go forward under their original terms.

The bill would apply very narrowly. In Denton County, for example, two fresh water supply districts, the City of Lewisville, and a landowner signed a contract to develop 2,600 acres of land for a mixed-use development. The contract was approved by a majority of the voters in the two districts. The agreement covers every aspect of municipal authority over the project, including police and fire protection, water and sewer services, and road construction and drainage improvements. The city agreed to issue bonds for roads, water, sewer, and drainage improvements, and the districts agreed to assist in the repayment of those bonds through taxes on property within their boundaries. The City of Lewisville already has issued \$19 million of bonds pursuant to the agreement, all backed by letters of credit or bond insurance and which pose no financial risk to the taxpayers.

SB 1865 and the regulations promulgated by TNRCC under that bill would reallocate dramatically the costs and benefits of the contract executed in 1995. TNRCC oversight of district projects is necessary to protect taxpayers in areas where there is no local governing body. This protection is not needed in this case when the City of Lewisville can provide these protections through a contract. It is unfair to require the contract to be renegotiated because of a law enacted after the agreement between the parties.

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OPPONENTS SAY: CSHB 2956 would allow certain fresh water supply districts to circumvent TNRCC regulations that were put in place to protect taxpayers. Under current law, districts must submit certain bond-financed projects to TNRCC so that the commission can determine their viability. There is no reason to exempt any district from these regulations.

NOTES: The original bill, which did not limit its terms to agreements made before September 1, 1997, would have allowed a district to proceed with a voter-approved contract without TNRCC approval if that district were wholly or partially located within the extraterritorial jurisdiction of one or more cities and if the cities had approved the contract.