

SUBJECT: Contracts between Harris County water districts and City of Houston

COMMITTEE: Natural Resources — committee substitute recommended

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

WITNESSES: For — Steve Bresnen, Spirit of North Harris County Coalition
Against — None

BACKGROUND: Water districts are local political subdivisions of the state governed by boards of directors. The Texas Natural Resource Conservation Commission (TNRCC) has oversight authority over water districts.

The Harris-Galveston Coastal Subsidence District, created in 1975, regulates groundwater withdrawals and works to prevent land subsidence. The district has the authority to restrict pumping and groundwater use in Harris and Galveston counties.

Water Code, sec. 49.182 authorizes TNRCC to supervise water district projects and improvements and stipulates that commission-approved plans may not be altered substantially during project construction without TNRCC approval. The executive director may inspect a project site to determine if the project is proceeding in accordance with plans and specifications.

If the executive director finds that a project is not being constructed in accordance with approved plans, the water district manager and board members must be notified immediately in writing. If they do not take steps to correct the problem within 10 days, the executive director must notify the attorney general, who then may bring an action for injunctive relief against the directors in Travis County district court.

Water Code, secs. 49.108(b) and (c) govern elections held by water districts to seek approval for district contracts. These sections authorize a district to

make payments under a contract after the contract has been approved by a majority of the qualified voters at an election held for that purpose. The board may modify or amend a contract without voter approval, and a contract election may be held at the same time or in conjunction with any other district election.

DIGEST:

CSHB 3802 would add sec. 49.1085 to the Water Code to provide that a water district located entirely in a county with a population of 2.8 million or more (Harris County) could not enter into a contract of longer than three years to buy surface water for sale or use in the district unless:

- ! the contract was approved in an election in the manner provided by Water Code, secs. 49.108(b) and (c); and
- ! TNRCC had approved the contract in the manner laid out by the Water Code for TNRCC review and approval of water district bonds.

TNRCC's authority to supervise water district projects and improvements also would apply to contracts formed under CSHB 3802.

Notwithstanding any other law, each party to a contract under this section would have to make books and records available for inspection by TNRCC and by a district party to the contract, as necessary to allow TNRCC to carry out its statutory obligations.

CSHB 3802 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS
SAY:

CSHB 3802 would put procedures in place to ensure that long-term contractual arrangements between the City of Houston and municipal utility districts (MUDs) would be fair to both parties. The bill would help hundreds of MUDs in Harris County who are facing deadlines to convert from groundwater to surface water. The Harris-Galveston Coastal Subsidence District requires almost all permitted groundwater users in the region to begin shifting from groundwater to surface water supplies because of subsidence problems in the region.

Water users who do not meet these deadlines will have to begin paying disincentive fees. To avoid this, water districts and others will have to enter into contracts to reduce total groundwater use while converting to alternate

surface water supplies. Because the only entity selling surface water in the region is the City of Houston, the districts will have to contact for their water with the city.

The safeguards provided by CSHB 3802 would ensure that Houston, with its battery of lawyers, would not have an unfair advantage in negotiating such contracts. The impending subsidence-district penalties give the districts little room to maneuver.

State law charges TNRCC with overseeing the issuance of water district bonds, and the agency has the experience to oversee water contracts properly. If a water district must commit to a 30-year contract in which the district is obligated to subsidize the construction of water infrastructure or the purchase of water rights, for example, it is almost as if that district is issuing a long-term bond. It makes sense to subject the contract to voter approval and for TNRCC to oversee the contract just as it reviews and approves bonds.

Under CSHB 3802, any long-term contract between the city and the water districts would have to be approved by an election. This would ensure that the public would be informed about contracts that could affect them.

**OPPONENTS
SAY:**

CSHB 3802 would make contracting onerous for both the City of Houston and the water districts of Harris County. It is essential that districts move quickly to enter into contractual agreements for surface water, or they will have to start paying disincentive fees to the subsidence district. CSHB 3802 would make this process much more time-consuming for both parties by requiring that an election be held for every contract.

This bill would apply to each of the more than 400 MUDs in Harris County. The required elections would be time-consuming and expensive, and the costs would be passed on to Harris County residents.

Houston supplies water to at least 14 different cities, many MUDs, and industrial users on the Houston Ship Channel, and the city has not had a rate case in decades. There is no reason to make surface water contracts for all Harris County districts more complicated and time-consuming because some districts in north Harris County mistakenly fear that Houston will act improperly. The city has treated its water customers with consummate fairness.

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NOTES: The committee substitute changed the original bill to require that a contract be approved in an election in a manner provided by Water Code, secs. 49.108(b) and (c), and by deleting a statutory reference to the powers of a district to issue contracts.

A related bill, HB 2965 by Hilbert, which would create the North Harris County Regional Water Authority to contract with Houston for surface water, is also on today's House calendar.