

SUBJECT: Revising water district statutes

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 7 ayes — Puente, Callegari, Campbell, R. Cook, Geren, Hamilton,
Hardcastle

0 nays

2 absent — Hope, Wolens

WITNESSES: *(On original version:)*

For — Joe B. Allen and Bill Blich, Association of Water Board Directors

Against — Tom “Smitty” Smith

On — Jamie Mitchell, Energy Conservation Coalition

DIGEST: CSHB 1541 would exempt a water district with a total annual electricity expense of less than \$200,000 from an energy efficiency program for political subdivisions.

All districts. A municipality could contract with a district for an unlimited duration.

The secretary of a district board could post notice that an election would not be held after receiving certification that a candidate for the board was unopposed for election. The board would meet at the earliest practical time to declare each unopposed candidate elected. In a bond election, an engineer’s report on the land or facilities to be purchased or constructed would not be a part of the proposition to be voted on or a contract with voters.

The bill would specify that current law requiring the Texas Commission on Environmental Quality (TCEQ) to determine that a project be feasible before a district could issue bonds for the project did not apply to:

- refunding bonds if TCEQ issued an order approving the bonds or notes that originally financed the project; or

- refunding bonds that were issued by a district under an agreement with a municipality allowing district bonds to refund municipal bonds.

A district board could file audits, affidavits, or financial reports with the executive director of TCEQ electronically.

In selling surplus land, a district board could impose restrictions on the use of the land. If a district had outstanding tax revenue bonds, the proceeds from the sale of property originally acquired from the bond proceeds could be held and treated as surplus bond proceeds and spent only as provided by TCEQ rules.

A district contract for construction work could include economic incentives for early completion of the work, or disincentives for late completion. The board would not have to seek competitive bids for a security or surveillance system if it would compromise the safety or security of district facilities or residents. Electricity purchase contracts would be exempt from statutory contract requirements for districts.

A district could exclude land or other property from the district if it had no bonds payable in whole or in part from taxes.

Municipal Utility Districts. A municipal utility district (MUD) that operated a water supply system could prohibit the installation of private water wells on land served by the water supply system. A MUD that had not received water financial assistance bond funding from the Texas Water Development Board could not require a property that had installed a water well before adoption of the rule to connect to the water supply system. If a MUD prohibited installation of a private water well, it would have to pay the owner's cost to connect the water-supply system if the connection distance was 300 feet or more, subject to TCEQ rules on reimbursement of costs.

A MUD would not be required to adopt a plumbing code. However, it could adopt a plumbing code meeting state requirements and could amend the code for local concerns.

A MUD with the power to levy taxes could petition TCEQ to acquire the powers of a road utility district.

A MUD could repay bonds by pledging all or part of any available funds or revenue. Revenue bonds could be issued without an election. An election would not be required to pledge revenues to repayment of bonds.

Levee improvement districts. A levee improvement district could construct all improvements necessary or convenient to accomplish the purposes of the district. In addition, the bill would make terminology changes in the statute governing levee improvement districts, including using “engineer’s report” instead of “plan of recommendation.”

Water supply corporations. If a water supply corporation issued bonds secured by a contract with a municipality, the corporation would be considered to be acting on behalf of the municipality for the purposes of the Public Security Procedures Act. A political subdivision would be authorized to approve the articles of incorporation and bylaws of a corporation created to construct facilities under a contract with a municipality.

Repealers. The bill would repeal provisions in current law, including:

- ballot form requirements for MUDs;
- provisions for protesting a TCEQ decision on a levee improvement district reclamation plan;
- certain construction contract requirements for levee improvement districts;
- duplicate filing requirement for an engineer’s report;
- requirements establishing a plan of reclamation for a levee improvement district;
- a municipality’s authority to sell a municipal water or sewer system to a water district; and
- a conservation and reclamation district’s authority to acquire the powers of a road utility district by petitioning TCEQ.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 1541 would amend statutes governing water districts to facilitate more efficient operation of the districts. For example, the bill would authorize a water district board to forgo holding an election for a board seat if a candidate was running unopposed, saving time and money for districts. In addition, the bill would authorize a municipality to contract with a district for an unlimited duration, exempt districts from competitive bidding for electricity contracts, and authorize districts to include economic incentives for early completion of construction contracts. Because the bill would lower costs by improving the efficiency of water district administration and operations, it would result in savings for taxpayers and ratepayers.

The bill as substituted resolved concerns about exempting water districts from the state's energy efficiency program for political subdivisions. The original bill would have exempted all water districts from the program, giving rise to concerns about energy consumption in large water districts and its impact on the state's ability to comply with federal Clean Air Act requirements. However, the substitute specifies that only small water districts would be exempted from the requirements. These districts do not consume enough electricity to have a significant impact on emissions from electricity-generation plants.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

Changes made by the substitute to the bill as introduced include:

- limiting the exemption from the energy efficiency program to districts with annual electricity expenses below \$200,000;
- amendments to bond refunds exempted from TCEQ requirements;
- eliminating amendments to water control and improvement district statutes;
- eliminating a provision that would have included water reuse and recycling among the purposes for which a MUD could be created; and
- repealing a municipality's authority to sell a municipal water or sewer system to a water district.