

- SUBJECT:** Authorizing MUDs to develop parks and recreational facilities
- COMMITTEE:** State Cultural and Recreational Resources — favorable, without amendment
- VOTE:** 4 ayes — Hilderbran, Geren, B. Cook, Phillips
0 nays
3 absent — Bailey, Dukes, Kuempel
- SENATE VOTE:** On final passage, April 23 — voice vote (Fraser recorded nay)
- WITNESSES:** No public hearing
- BACKGROUND:** Texas Constitution, Art. 16, sec. 59(a) states that conservation and development of Texas’ natural resources are public rights and duties, and the Legislature must pass laws appropriate for this purpose. Sec. 59(b) allows the creation of conservation and reclamation districts as governmental agencies with power to incur debts as necessary. Water Code, ch. 54 authorizes the creation of a municipal utility district (MUD) under Art. 16, sec. 59. A district may include the area in all or part of any county or counties, including all or part of any cities and other public agencies.
- Since the 1970s, the Legislature has enacted several laws that would authorize a MUD to provide parks and recreational facilities. The most recent of these was SB 1444 by Brown, enacted by the 77th Legislature in 2001.
- A 1980 appeals court decision, *Harris County Water Control and Improvement District No. 110 v. Texas Water Rights Commission*, 593 S.W.2d 852 (Tex. Civ. App.-Austin), upheld a district court ruling that (1) the statute authorizing districts to “provide parks and recreational facilities” did not authorize the district to provide the facilities in question, and (2) the mere fact that the Constitution did not prohibit the district from providing the parks and recreational facilities did not establish the district’s authority to do so.
- DIGEST:** SB 624 would amend the Water Code to allow certain MUDs to issue bonds for development and maintenance of recreational facilities if the bonds were

authorized by a majority of voters in a district election. MUDs in Travis, Williamson, Harris, Galveston, Brazoria, Fort Bend, or Montgomery counties, or partly in one of those counties, would be included.

The bill would expand the purpose of these MUDs to include financing recreational facilities in addition to developing and maintaining them for people in the district. It would limit the maximum tax rate for recreational facilities to 10 cents per \$100 of assessed valuation of taxable property and the amount of outstanding principal on bonds to 1 percent of the value of the taxable property in the district at the time of the issuance or an amount greater than the cost of the project, whichever was smaller.

A MUD could not issue bonds supported by ad valorem taxes to pay for the development and maintenance of recreational facilities unless the bonds were authorized by majority vote of the district's qualified voters in an election. The board could issue bonds payable solely from revenues by resolution or order, without an election. A district could not issue bonds supported by ad valorem taxes to pay for the development and maintenance of a swimming pool or golf course.

Not later than the 10th day before a bond election to authorize a recreational facility, the board would have to file for public review a park plan covering the land, improvements, facilities, and equipment to be bought or built and their estimated costs. The required park plan would include maps, plats, drawings, and data fully showing and explaining the park plan. The plan would not be part of the voter proposition and would not create a contract with the voters.

The notice of a bond election would have to include the proposition to be voted on and an estimate of its costs. A district bond election for development of a recreational facility could be held on the same day as another MUD election. The board could call a bond election by a separate election order or as part of another election order. The board could submit multiple purposes in a single proposition at an election. Also, the board could call a bond election for a recreational facility as a result of an agreement to annex additional territory into the district.

The Texas Commission on Environmental Quality would have to adopt rules regarding the provision and financing of recreational facilities.

SB 624 would repeal existing statutes relating to the authority of MUDs to develop and maintain recreational facilities. It would remove current language that refers to the Legislature's authority to permit MUDs to develop and maintain parks and recreational facilities.

This bill would take effect on the effective date of a proposed constitutional amendment, SJR 30, authorizing development of parks and recreational facilities by certain conservation and reclamation districts, which would be submitted to voters on November 4, 2003. If voters did not approve the constitutional amendment, SB 624 would not take effect.

**SUPPORTERS
SAY:**

SB 624, the enabling legislation for SJR 30 by Lindsay, would establish the statutory authority for certain MUDs to develop parks and recreational facilities. Unlike almost every other type of political subdivision, MUDs have no explicit authority to use tax dollars to develop parks and recreational projects. MUDs may build parks and recreational facilities only with surplus funds from water and sewer revenues. Approval of SB 624 and SJR 30 would authorize certain MUDs to issue revenue bonds, if local voters approved, for the purpose of creating parks, rather than relying on surplus revenues alone.

Almost all MUDs are in unincorporated areas. More than 80 percent, or 500 MUDs, are in unincorporated areas in and around Houston. A compelling need exists for park development in these areas, which this bill would address without granting broader authority to other districts in the state.

While most people think of the state, counties, and cities as developing public parks and recreational facilities, these entities often cannot meet needs at the neighborhood level. Counties have established large parks, but they often fall short in offering local soccer and Little League fields. This bill, in conjunction with the proposed amendment, would address this deficiency before desirable open lands were gone.

Many housing developments also have recreational needs that MUDs could fill. Outside of individual homeowners' associations, MUDs would be their only common link for a park or other facility, such as a hike-and-bike trail.

Concerns have been stated about giving MUDs this authority because they experience low voter turnout in bond elections, but that issue could cut both ways. People interested in acquiring parks in these districts could become involved actively in the elections and could have a large impact. SB 624 would require notice of a bond election that would have to contain the proposition and an estimate of its costs.

**OPPONENTS
SAY:**

MUDs run water and sewer systems, collect taxes, sell tax bonds, and build infrastructures. Many MUDs are too involved in kingdom-building already, and the last thing the Legislature should do is authorize them to build parks and recreational facilities. The state, counties, and cities have mechanisms in place to set up such facilities, and they should be adequate to meet public recreational needs without granting the same authority to MUDs.

Voter turnout in MUD elections traditionally has been very low — often as low as 1 percent. SB 624 could enable a tiny fraction of a voter pool to commit the other 99 percent to paying for revenue bonds for parks.

**OTHER
OPPONENTS
SAY:**

Citizens across the state have expressed interest in this change, not merely in the counties that would be included. Voter approval of the constitutional amendment and enactment of this bill could fill a need to acquire open spaces for small parks and recreational facilities. Communities across Texas should be able to take advantage of this opportunity.

NOTES:

The committee amendment would add Williamson County to the list of counties in which MUDs could issue bonds for the development of parks and recreational facilities.

SJR 30 by Lindsay, which would amend the Constitution to authorize the Legislature to authorize indebtedness for MUDs in Travis, Harris, Galveston, Brazoria, Fort Bend, or Montgomery counties to develop parks and recreational facilities, is on today's Constitutional Amendments Calendar.

The companion measures, HJR 49 and HB 2477 by Callegari, were postponed in the House on May 9. Both of those proposals would have applied to all MUDs, not those in certain counties.