

- 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 — 26-5 (Bivins, Duncan, Fraser, Ogden, Staples)
- 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 park and recreational facilities did not establish the district’s authority to do so.
- DIGEST:** SJR 30 would amend Texas Constitution, Art. 16, sec. 59(a) to include the development of parks and recreational facilities among the public rights and

duties for which the Legislature must pass appropriate laws related to conserving and developing natural resources.

SJR 30 would permit the Legislature to authorize certain MUDs to issue bonds for development and maintenance of recreational facilities, if approved by a majority of voters in a district election. MUDs in Travis, Harris, Galveston, Brazoria, Fort Bend, or Montgomery Counties, or partly in one of those counties, would be included. The bonds would be a lien on the property assessed for the payment of the bonds. The Legislature also could authorize the MUD to levy taxes to pay interest and create a sinking fund for the bonds.

The resolution would state the Legislature's intent to expand the authority of conservation and reclamation districts with respect to parks and recreational facilities and that SJR 30 should not be construed as limiting the powers of a conservation and reclamation district as those powers existed immediately before the proposed amendment took effect.

The proposal would be presented to voters at an election on Tuesday, November 4, 2003. The ballot proposal would read: "The constitutional amendment relating to the provision of parks and recreational facilities by certain conservation and reclamation districts."

**SUPPORTERS
SAY:**

SJR 30 would establish the development of parks and recreational facilities as a constitutionally authorized power of water districts, including MUDs. Unlike almost every other type of political subdivision, MUDs have no explicit constitutional 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. SJR 30 would allow 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 throughout 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 proposed amendment would address this deficiency before 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. This amendment 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 Texas have expressed interest in this constitutional change. Voter approval of this amendment would fill a need to acquire open spaces for small parks and recreational facilities while opportunities remain, and communities statewide should be able to take advantage of it.

NOTES:

The enabling bill, SB 624 by Lindsay, which would authorize certain MUDs to issue tax-supported bonds to pay for development and maintenance of recreational facilities, is on today's House General State Calendar.

SJR 30
House Research Organization
page 4

The companion measures, HJR 49 and HB 2477 by Callegari, were postponed in the House on May 9 and died with the expiration of remaining House bills. Both of those proposals would have applied to all MUDs.