

SUBJECT: Allowing certain municipalities to contract for reclaimed water facilities

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Price, Workman

0 nays

1 absent — Nevárez

WITNESSES: For — John Ohnemiller and Courtney Sharp, City of Midland; Ben Shepperd, Permian Basin Petroleum Association; Mark Berg, Pioneer Natural Resources; (*Registered, but did not testify*: Teddy Carter, Devon Energy; Charlie Schnabel, Manville Water Supply Corporation; Lindsey Miller, Texas Independent Producers and Royalty Owners Association; Cory Pomeroy, Texas Oil and Gas Association)

Against — None

On — (*Registered, but did not testify*: Perry Fowler, Texas Water Infrastructure Network)

DIGEST: HB 101 would authorize certain municipalities to enter into a contract with any person to design, construct, or reconstruct a reclaimed water facility with a capacity of at least 10 million gallons per day. The bill would apply to a home-rule municipality meeting certain population requirements (Midland).

The contract could be payable from a pledge of the revenues of the water, sewer, or combined system of the municipality or as an operating expense of that system. It would not be payable from property tax revenues.

The contract would be subject to certain regulations under Local Government Code, ch. 271, subch. I for the adjudication of claims arising under contracts regarding the sale of reclaimed water for industrial use.

HB 101 would apply to a contract entered into before the effective date of the bill. The contract would remain valid if the municipality's population changed after entering into the contract.

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, 2017.

**SUPPORTERS  
SAY:**

HB 101 would grant legislative approval to an agreement between the city of Midland and Pioneer Natural Resources to help update the city's water treatment infrastructure, conserve fresh water, and support economic development at no cost to taxpayers. It is a local economic development bill that would facilitate an historic public-private partnership for Midland.

Under the contract, Pioneer would invest \$110 million to upgrade Midland's aging wastewater treatment plant to Texas Commission on Environmental Quality standards. In exchange, Pioneer could purchase treated water at a discounted rate, providing Midland up to \$2.5 million annually. Pioneer also would build a pipeline from the treatment plant to its facilities, which would reduce truck traffic in the region.

The bill would help conserve water resources. Pioneer could shift from using 70 percent fresh water for its hydraulic fracturing operations to a much smaller amount, saving millions of gallons of fresh water and making fracking activity more water-neutral. The city's wastewater has been unused and a liability, so the contract would cut disposal costs, and some wastewater still would be available for other uses, such as irrigation.

The contract would bring economic development to the region and support energy independence for the county without an increase in taxes or debt. Enactment of the bill would embrace the booming oil and gas industry in the Permian Basin and encourage similar public-private partnerships.

Legislative approval for this bill would help provide certainty that the city's capital investments were protected.

**OPPONENTS  
SAY:**

While the deal approved by HB 101 would reduce the use of fresh water for fracking, it would not do enough to be water-neutral. It also could reduce the amount of reclaimed water available for other purposes, such as irrigation. The bill is unnecessary, as cities may enter into contracts with private entities without legislative approval.

**NOTES:**

An identical companion bill, SB 675 by Seliger, was referred to the Senate Agriculture, Water, and Rural Affairs Committee on February 15.