

BILL ANALYSIS

Senate Research Center

S.B. 1865
By: Armbrister
Intergovernmental Relations
4-3-97
As Filed

DIGEST

Currently, there are concerns that there is a lack of procedural uniformity between the different types of local water districts which may be resulting in inconsistency on certain levels. This bill makes certain technical corrections and clarifications to Chapter 49 of the Water Code and other changes in the administration and operation of certain districts.

PURPOSE

As proposed, S.B. 1865 sets forth policies for the operation, administration, and financing of utility districts.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 49.057(e), Water Code, to require the governing board of a district (board), to require an officer, employee, or consultant who routinely collects, pays, or handles any funds of the district, such as the bookkeeper, financial advisor, or system operator, to furnish good and sufficient bond, payable to the district, in an amount determined by the board to be sufficient to safeguard the district. "District" is defined in this chapter as any district or authority created by authority of either Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of how created, Authorizes the board to require a bond from other consultants as the board deems necessary.

SECTION 2. Amends Section 49.103, Water Code, by amending Subsection (e) and adding Subsection (g), to authorize districts that are required by this subsection to convert to four-year terms or change election dates to extend the terms of directors currently in office to the next appropriate election date in an even-numbered year. Authorizes directors in certain district to draw lots to determine which directors shall serve the longer terms necessary to convert to four-year staggered terms. Makes a conforming change.

SECTION 3. Amends Section 49.106, Water Code, by adding Subsection (d), to authorize a bond election to be called as a result of an agreement to annex additional land into the district.

SECTION 4. Amends Section 49.181(h), Water Code, to provide that this section does not apply to a district if the district is governed by a board of directors appointed in whole or in part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and does not provide or propose to provide water, sewer, drainage, reclamation, or flood control services to residential retail customers as its principal function.

SECTION 5. Amends Chapter 49F, Water Code, by adding Section 49.186, as follows:

Sec. 49.186. OBLIGATIONS, LEGAL INVESTMENT; SECURITY FOR FUNDS. Requires all bonds, notes, and other obligations issued by a district to be legal and authorized investments for certain private institutions and governmental entities. Requires a district's bonds, notes, and other obligations to be eligible and lawful security for all deposits of public

funds of the State of Texas and certain other agencies of the state, to the extent of the market value of the bonds, notes, and other obligations when accompanied by any unmatured interest coupons attached to them.

SECTION 6. Amends Section 49.196, Water Code, by adding Subsection (c), to require no conservation and reclamation district or entity organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, to be subject to the requirements of Section 140.006, Local Government Code.

SECTION 7. Amends Section 49.198(a), Water Code, to authorize a district to elect to file annual financial reports with the executive director in lieu of the district's compliance with Section 49.191 provided that this district did not have gross receipts for operation, loans, taxes, or contributions in excess of \$100,000 during the fiscal period, among other conditions.

SECTION 8. Amends Section 49.218(a), Water Code, to authorize a district or a water supply corporation to acquire any interest in land, among other assets.

SECTION 9. Amends Section 49.226(a), Water Code, to authorize any personal property valued at more than \$300, or any land or interest in land, rather than any land, interest in land, or personal property owned by the district, which is found to be surplus by the board to be sold under certain conditions.

SECTION 10. Amends Chapter 49I, Water Code, to provide a new heading, as follows:

SUBCHAPTER I. New heading: CONTRACTS FOR MATERIALS, MACHINERY, CONSTRUCTION, ETC.

SECTION 11. Amends Section 49.273, Water Code, by amending the section heading and Subsections (a), (d), (e), (f), and (g) and adding Subsection (l), as follows:

Sec. 49.273. New heading: CONTRACT AWARD. Requires the board to contract for the purchase of equipment, materials, machinery, and construction, repair, or renovation of district facilities in accordance with this section. Requires the board to advertise the letting of a contract, rather than construction contracts, for \$25,000 or more. Provides that repair of district facilities by the utility service operator is not subject to competitive bidding unless the costs of a single repair exceed the advertising requirements specified in this section. Provides that the provisions of this subchapter do not apply to equipment, materials, or machinery purchased at an auction open to the public. Makes a conforming change.

SECTION 12. Amends Section 49.301, Water Code, by amending Subsection (b) and adding Subsection (g), to require, rather than authorize, the board to require the petitioner or petitioners to perform certain functions. Provides that the order adding the proposed territory to the district need not include all of the land described in the petition if at the hearing a modification or change is found necessary or desirable by the board.

SECTION 13. Amends Section 49.302(f), Water Code, to delete text regarding a copy of the order annexing land to the district, signed by a majority of the members of the board.

SECTION 14. Amends Section 49.455(b), Water Code, to delete text requiring the information form filed by a district to include the aggregate initial principal amount of certain bonds that remain outstanding.

SECTION 15. Amends Section 51.411(b), Water Code, to require the board to estimate the total amount of money needed to cover certain costs and expenses incurred under this section, rather than the items listed in Section 51.409 of this code.

SECTION 16. Amends Section 54.102, Water Code, to require a person to be at least 18, rather than 21, years old to be qualified to serve as a director, among other qualifications.

SECTION 17. Amend Section 54.802(b), Water Code, to require the board to adopt a proposed plan for improvements in the defined area or to serve the designated property in the manner provided by Section 49.106, rather than Sections 54.506-54.507, of this code.

SECTION 18. Amends Section 54.806(a), Water Code, to require the election to be conducted as provided by Section 49.106 of this code, rather than this chapter, for an election to authorize the issuance of bonds.

SECTION 19. Amends Section 59.072(b), Water Code, to delete Section 54.515 from the sections of the Water Code that apply under this chapter.

SECTION 20. Amends Section 42.042(e), Local Government Code, to provide that if the consent to initiate proceedings to create the political subdivision is obtained, the consent will be valid until withdrawn by the governing body. Deletes existing provisions establishing a time period for the proceedings and conditions which terminate the consent.

SECTION 21. Amends Chapter 41B, Election Code, by adding Section 41.033, as follows:

Sec. 41.033. EARLY CLOSINGS OF POLLS FOR ELECTIONS INVOLVING FEWER THAN 50 QUALIFIED VOTERS. Authorizes the presiding judge present at the polling place to determine to close the polls at any time that the number of ballots cast equals the number of qualified voters eligible to vote in certain elections.

SECTION 22. Amends Section 6.003(b), Civil Practice and Remedies Code, to provide that a conservation and reclamation district or any entity organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, are exempt for the appeal bond requirements.

SECTION 23. Amends Section 16.061(a), Civil Practice and Remedies Code, to provide that any political subdivision, including but not limited to certain entities including a municipal utility district, a conservation and reclamation district, or any entity organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, are not barred by certain sections.

SECTION 24. Amends Section 26.012(8), Tax Code, to redefine "debt service."

SECTION 25. Amends Section 26.04(e), Tax Code, to require the designated officer or employee to deliver by mail to each property owner in the unit or publish in the newspaper a schedule of the unit's debt obligations showing payments required on debts anticipated to be incurred in the following calendar year, among other information.

SECTION 26. Amends Section 191.0525(d), Natural Resources Code, to provide that a project for a country, municipality, or other political subdivision requires advance project review only under certain conditions.

SECTION 27. Repealers: Sections 51.409, 53.071, 54.511 and 54.515, Water Code (Purposes for Issuance of Bonds, District Assessor and Collector, Use of Bond Proceeds, and Obligations, Legal Investment, and Security For Funds).

SECTION 28. Emergency clause.
Effective date: upon passage.