

## **BILL ANALYSIS**

Senate Research Center  
76R333 JJT-D

S.B. 700  
By: Lindsay  
Natural Resources  
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As Filed

### **DIGEST**

Currently, Texas law does not provide for the North Harris County Regional Water Authority. S.B. 700 creates the North Harris County Regional Water Authority; grants the power of the eminent domain an the authority to issue bonds an to impose taxes, and provides a civil penalty.

### **PURPOSE**

As proposed, S.B. 700 creates the North Harris County Regional Water Authority; grants the power of the eminent domain an the authority to issue bonds and to impose taxes, and provides a civil penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the North Harris County Regional Water Authority in SECTIONS 4.02 and 4.08 of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. CREATION. Creates a conservation and reclamation district, to be known as the North Harris County Regional Water Authority in Harris County (district). Provides that the district is a governmental agency and a body politic and corporate. Provides that the district is created under and is essential to accomplish the purposes by Section 59, Article XVI, Texas Constitution.

SECTION 1.02. DEFINITIONS. Defines “board,” “commission,” “director,” district,” “local government,” “person,” “subsidence district,” “system,” and “water.”

SECTION 1.03. DESCRIPTION OF BOUNDARIES. Sets forth the boundaries of the district. Provides that the district does not include any area inside the municipal limits of the city of Houston on the effective date of this Act. Requires the municipality, on annexation of any part of the territory of the district by a municipality or incorporation by a municipality of any part of the territory of the district, to assume a pro rata share of all debt of the district payable in whole or in part by ad valorem taxes. Requires the percentage of the assumption to be determined by a certain formula. Provides that after annexation by a municipality of a portion of the territory of the district or incorporation over any part of the territory of the district, the territory is no longer considered a part of the district for any purpose and the district may not impose taxes on that territory.

SECTION 1.04. EXCLUSION OF CERTAIN TERRITORY. Authorizes the governing body of a political subdivision within the territory described by Section 1.03 of this Act to request the subsidence district to certify that water systems serving the political subdivision are in compliance with the subsidence district’s rules. Requires the subsidence district to issue a letter granting or denying certification not later than a certain date. Authorizes the governing body of a political subdivision whose water systems the subsidence district has certified under Subsection (a) of this section by order to exclude from the district the area inside the subdivision’s territorial limits. Requires an order issued under Subsection (b) of this section to include an accurate description of the boundaries of the excluded territory. Requires the governing body of the political subdivision to file a copy of the order in the office of the county clerk of Harris County and present a copy of the order to the board of directors of the district. Requires the board, on receipt of the copy of the order, to file with the office of the county clerk of Harris County a description of the district’s boundaries after the territory is excluded. Requires the county clerk to record the order and the description of the district’s boundaries in the county records. Provides that immediately after the order

and description are recorded, the excluded territory is no longer a part of the district. Provides that the exclusion of territory under this section does not diminish or impair the right of the holders of any outstanding and unpaid bond or note of the district. Requires the district to continue to impose taxes each year on the excluded territory at the same rate imposed on other territory in the district and charge fees in the excluded territory to the extent the tax or fee revenue is pledged to pay an outstanding bond or note of the district. Requires the district to apply taxes and fees collected under this subsection only to the payment of the excluded territory's pro rata share of the district's indebtedness at the time the territory was excluded. Authorizes the owner of all or part of the excluded territory to pay in full the owner's share of the excluded territory's pro rata share of the district's indebtedness and receive a corresponding credit from the district.

**SECTION 1.05. APPLICABILITY OF OTHER LAW.** Provides that this Act prevails over any inconsistent provision of general law.

**SECTION 1.06. FINDING OF BENEFIT.** Provides that all the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conveyed by this Act. Provides that the district is created to serve a public use and benefit.

## ARTICLE 2. DIRECTORS

**SECTION 2.01. BOARD OF DIRECTORS.** Provides that the district is governed by board, consisting of nine directors. Requires a vacancy in the office of director to be filled by appointment of the board until the next election for directors. Requires the person elected to fill the position to serve only for the remainder of the unexpired term, if the position is not scheduled to be filled at the election. Requires a person, to be eligible to serve as director, to be a qualified voter in the voting district from which the person is elected or appointed if representing a voting district or in the district if representing the district at large.

**SECTION 2.02. METHOD OF ELECTION OF DIRECTORS.** Requires one director to be elected from each of nine single-member voting districts by the qualified voters of the voting district. Requires a person to indicate on the person's application for a place on the ballot the voting district that the person seeks to represent. Requires the board to redraw the single-member voting districts as soon as practicable after each federal census, and any change in district boundaries. Sets forth certain actions to take place at the first election after each time the voting districts are redrawn. Provides that Chapter 146C, Election Code, applies to the consideration of voters for a write-in candidate for initial permanent director or permanent director as if the district were a municipality.

**SECTION 2.03. SERVICE OF DIRECTORS.** Provides that temporary directors serve until the initial permanent directors are elected under Section 2.05 of this Act. Sets forth the terms of the directors.

**SECTION 2.04. TEMPORARY DIRECTORS.** Provides that the temporary board of directors is composed of three individuals appointed by the Texas Natural Resource Conservation Commission (commission). Requires the temporary directors who have qualified to appoint a person to fill the vacancy, if a temporary director fails to qualify for office. Requires the commission to appoint the necessary number of persons to fill all vacancies on the board, if at any time there are fewer than two qualified directors, or if the temporary directors cannot agree on the appointment. Provides that a temporary director is not eligible to be elected under Section 2.05 of this Act.

**SECTION 2.05. INITIAL PERMANENT DIRECTORS.** Requires the temporary board of directors to take certain actions. Authorizes a person who desires to be a candidate for the office of initial permanent director to file an application with the temporary board to have the candidate's name printed on the ballot. Requires the temporary board of directors to have placed on the ballot certain provisions for the initial permanent directors' election. Provides that Section 41.001(a), Election Code, does not apply to the initial permanent directors' election held under this section.

**SECTION 2.06. ELECTION DATES.** Requires the appropriate number of directors to be elected to the board on the third Saturday in January in each subsequent even-numbered year.

**SECTION 2.07. COST OF ELECTION OF INITIAL PERMANENT DIRECTORS.** Requires the temporary board of directors and the board of directors of the subsidence district to execute a certain agreement.

### ARTICLE 3. ADMINISTRATIVE PROVISIONS

SECTION 3.01. MEETINGS AND ACTIONS OF BOARD. Requires the board to meet at least four times each year and may meet at any other time considered appropriate.

SECTION 3.02. EMPLOYEE BONDS. Requires each employee or contractor of the district who is charged with the collection, custody, or payment of any money of the district to execute a fidelity bond in an amount determined by the board and in a form and with a surety approved by the board. Requires the district to pay the premiums on any bonds required under this section.

### ARTICLE 4. POWERS AND DUTIES

SECTION 4.01. GENERAL POWERS AND DUTIES. Authorizes the district to exercise all of the rights, privileges, authority, functions, and duties necessary and convenient to accomplish the purpose of this Act, including those provided by Chapter 36 and 49, Water Code. Prohibits the district from taking any action under Section 36.113(e), Water Code, related to the control or prevention of subsidence. Authorizes the district take certain actions. Requires the district to consult with the subsidence district on any matter involving subsidence inside of the district's boundaries. Provides that the rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be as exercised by and through the commission.

SECTION 4.02. DISTRICT RULES. Requires the district to adopt certain rules reasonably required to implement this Act, including rules governing procedure and practice before the board. Requires the district to print its rules and furnish copies of the rules to any person on written request.

SECTION 4.03. FEES AND CHARGES. Requires the district to establish fees and charges necessary to enable the district to fulfill the district's obligations under this Act. Authorizes the district to establish fees and to recover capital expenditures as provided by Chapter 395, Local Government Code.

SECTION 4.04. INSPECTIONS AND INVESTIGATIONS. Authorizes the district to enter public or private property in the district to inspect or investigate conditions relating to the district's authorized purpose under the same provisions and restrictions applicable to the commission under general law.

SECTION 4.05. HEARING AND ORDER. Authorizes the board to take certain actions regarding hearings. Requires an order of the board to provide certain items.

SECTION 4.06. CIVIL PENALTY; INJUNCTION. Provides that a person who violates a rule, permit, or order of the district is subject to a civil penalty of not less than \$50 and not more than \$5,000 for each violation or each day of a continuing violation. Authorizes the district to sue to recover the penalty in a district court in the county where the violation occurred. Requires the penalty to be paid to the district. Requires the district to sue for injunctive relief in a district court in the county where a violation of a district rule, permit, or order occurs or is threatened to occur. Authorizes the court to grant to the district, with bond or other undertaking, a prohibitory or mandatory injunction that the facts warrant, including a temporary restraining order, temporary injunction, or permanent injunction. Authorizes the district to sue for a civil penalty and injunctive relief in the same proceeding.

SECTION 4.07. JUDICIAL REVIEW. Authorizes a rule, order, or other official action of the district under this chapter to be appealed to a district court in Harris County by any adversely affected person. Requires an appeal to be filed not later than the 45th day after the date the rule is adopted, order is issued, or other action takes effect. Requires the board, on written request of a person who resides or owns real property in the district to make written findings of fact and conclusions of law regarding a rule, order, or other action of the district and provide a certified copy of the findings and conclusions to the person not later than the 35th day after the date the district receives the request. Provides that the review on appeal is under the substantial evidence rule as described by Section 2001.174, Government Code.

SECTION 4.08. WATER SUPPLY PLANS. Requires the district, by rule, as needed but not less frequently than every five years, to develop, prepare, revise, and adopt comprehensive water supply plans for various areas of the district. Sets forth requirements of the plan.

SECTION 4.09. ACQUISITION, CONSTRUCTION, AND OPERATION OF SYSTEMS. Authorizes the district to take certain actions.

SECTION 4.10. SYSTEM CONTRACTS. Authorizes the district to contract to receive, treat, and supply water to or from any person inside or outside the district. Requires the district, in contract under this section, to set fees according to certain provisions.

SECTION 4.11. SALE OR REUSE OF WATER OR BY-PRODUCT. Authorizes the district to store, sell, or reuse water or any by-product from the district's operation.

SECTION 4. 12. EMINENT DOMAIN. Authorizes the district to exercise the power of eminent domain under Chapter 21, Property Code, to acquire property of any kind to further authorize district purpose. Provides that the district is not required to deposit a bond under Section 21.021(a), Property Code.

SECTION 4.13. CONTRACTS. Authorizes the district to enter into a contract with any person or legal entity regarding the performance of any purpose or certain function of the district to accomplish a purpose or function of the district. Authorizes a contract to be of unlimited duration. Authorizes the district to purchase an interest in a project used for a purpose or a function of the district. Authorizes the district to take certain actions. Authorizes the district to purchase surplus property from this state, the United States, or other public entity through a negotiated contract without bids. Requires an officer, agent, or employee of the district who is financially interested in a contract of the type described in Subsection (d) of this section to disclose the interest to the board before the board votes on the acceptance of the contract. Provides that a contract between the district and the municipality is not required to be submitted to the municipality's electorate.

SECTION 4.14. GIFTS AND GRANTS. Authorizes the district to accept and use a gift or grant from the subsidence district from money collected by the subsidence district under Chapter 36, Water Code, to fund a water treatment or supply system in the district.

#### ARTICLE 5. NOTES, BONDS, AND TAXATION

SECTION 5.01. REVENUE NOTES. Authorizes the board, without an election, to borrow money on negotiable notes of the district to be paid solely from the revenue derived from any source other than ad valorem taxes, including certain other income. Authorizes the notes to be first or subordinate lien notes at the board's discretion. Prohibits an obligation from being a charge on the property of the district or on taxes imposed by the district. Authorizes an obligation to only be a charge on revenue pledged for the payment of the obligation. Prohibits a tax imposed by the district from being used to pay any part of the obligation.

SECTION 5.02. BONDS. Authorizes the district, to carry out a power or authority conferred by this Act, to issue bonds secured by a pledge of ad valorem taxes or of all or part of the revenue derived from any source other than ad valorem taxes, including any source described by Section 5.01(a) of this Act. Authorizes the district, in securing a bond or note of the district, to exercise any power of an issuer under V.T.C.S. Authorizes the district to conduct a public, private, or negotiated sale of the bonds. Prohibits bonds secured in whole or in part by taxes from being issued until authorized at an election called and held in compliance with Section 36.180, Water Code. Requires the district's bonds to take certain action. Authorizes a district's bond to be secured by an indenture of trust with a corporate trustee. Authorizes the district to issue bonds in more than one series as required for carrying out the purposes of the Act. Authorizes the district, in issuing bonds secured by the district's ad valorem taxes or by revenue, to reserve the right to issue additional bonds secured by the district's ad valorem taxes or by revenue that are on a parity with or are senior or subordinate to the bonds issued earlier. Authorizes the resolution authorizing the bonds or the trust indenture securing the bonds to specify additional provisions that constitute a contract between the district and its bondholders. Authorizes the board to provide certain items.

SECTION 5.03. REFUNDING BONDS. Provides that the provisions of this Act that apply to the district's issuance of other bonds, their security, and the remedies of the holders apply to refunding bonds.

SECTION 5.04. APPROVAL AND REGISTRATION OF BONDS. Requires the district to submit the bonds and record relating to their issuance to the attorney general for approval, after the district authorizes bonds. Requires the district to submit to the attorney general a copy of the contract and the proceedings of the municipality or other governmental agency, authority, or district authorizing the contract, if the bonds are secured by a pledge of the proceeds of a contract between the district and a municipality or other governmental agency, authority, or district. Requires the attorney general to approve the bonds and contracts, if the attorney general finds that the bonds have been authorized and each contract has been

made in accordance with the constitution and laws of this state. Requires the bonds, on approval, to be registered by the comptroller.

**SECTION 5.05. FUNDING BY OTHER CONSERVATION AND RECLAMATION DISTRICTS.** Requires the district to develop a procedure for cooperatively funding a district project with money from other conservation and reclamation districts inside of the district's boundaries if the district project fulfills a governmental purpose of both districts. Requires the district by a certain date to provide written notice of the district's intention to issue the bonds to each conservation and reclamation district inside of the district's boundaries that may be benefited or affected by the project. Requires the notice to include certain information related to the value of the bonds planned to be issued. Requires the schedule to be prepared by means of a formula certified by the district engineer. Authorizes a conservation or reclamation district to enter into a certain contract with the district. Requires the contract to be executed before the district issues the bonds. Prohibits the project from being financed in any part with bonds payable with revenue derived from ad valorem taxes. Requires the district to take certain actions as provided by the contract.

## ARTICLE 6. COMPETITIVE PROPOSALS AND CONTRACTS

**SECTION 6.01. PROPOSALS FOR CONTRACTS AND SERVICES.** Provides that the board is not required to solicit proposals for contracts or services, but may solicit proposals to further the interests of the district. Requires the board to make the solicitation in accordance with Chapter 271B, Local Government Code, except as provided by this article, if the board elects to solicit proposals.

**SECTION 6.02. REQUESTS FOR PROPOSAL; NOTICE.** Requires the district to solicit quotations through a request for proposal. Requires public notice of the request for proposal to include certain items.

**SECTION 6.03. OPENING PROPOSALS AND PRICED BIDS.** Sets forth the requirements for opening proposals and priced bids.

**SECTION 6.04. CONSIDERATION OF PRICED BIDS; AWARD.** Requires the board to consider the priced bids in open session not later than the 30th day after the date the proposals are opened under Section 6.03 of this Act. Requires the board to make all proposals and bids available for public inspection after the board awards the contract.

**SECTION 6.05. PUBLIC INSPECTION OF BIDS AND PROPOSALS.** Requires the board to make all proposals and bids available for public inspection after the board awards the contract.

**SECTION 6.06. NEGOTIATION WITH BIDDERS.** Sets forth requirements for the board in conducting negotiations with bidders.

**SECTION 6.07. CONTRACT MODIFICATION.** Authorizes the board or a person the board appoints to make purchases or act on the board's behalf to negotiate a modified contract, at any time after the contract is awarded under this article and before the contract executed, if the modification meets certain requirements.

**SECTION 6.08. CHANGE OF CONTRACT AMOUNT.** Authorizes the board to grant an employee of the district general authority to approve a change order that involves an increase in contract costs of \$50,000 or less. Prohibits the board or employee from approving certain change orders.

**SECTION 6.09. BID BOND.** Authorizes the board to include in the request for proposals or bid specifications a requirement that the bidder provide a good and sufficient bid bond in the amount of five percent of the total contract price if certain conditions exist. Requires a bid bond required by this section to be executed with a surety company authorized to do business in this state.

**SECTION 6.10. PERFORMANCE BOND.** Authorizes the board to require an offer of a proposal or a bidder to provide a performance bond to the district for the full amount of the contract if the contract price exceeds \$50,000. Requires the bond to be provided before the contract work begins and not later than a certain date.

## ARTICLE 7. MISCELLANEOUS PROVISIONS

**SECTION 7.01. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.** Sets forth certain

findings related to procedural requirements.

SECTION 7.02. Emergency clause  
Effective date: upon passage.