

BILL ANALYSIS

Senate Research Center
79R12516 QS-F

C.S.S.B. 1798
By: Armbrister
Natural Resources
4/23/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1798 creates the North Fort Bend Water Authority (authority), in Fort Bend and Harris counties, to address the long-term water needs of Fort Bend County. Currently, no water district exists for this area.

The land proposed to be included within the authority is located within Fort Bend County with a small amount of land within Harris County. The Fort Bend County land proposed to be included within the authority is located within Area A of the Fort Bend Subsidence District (district). The district has issued groundwater reduction regulations that require use of water sources other than groundwater. Currently, the water needs of the area are provided by water districts through groundwater wells. The district requires major water users (such as water districts) in Area A to convert to alternative water sources at the following rates: 30 percent by the year 2013 and 60 percent by the year 2025. In addition, a combined groundwater reduction plan must be submitted by the affected entities to the district by January 1, 2008.

Creation of the authority would provide a mechanism to prepare a combined groundwater reduction plan for entities within the authority. The authority would be able to provide alternate sources of water, facilitate compliance with district regulations, and reduce groundwater withdrawals. The authority can charge fees, user fees, rates, charges and special assessments to accomplish the purposes for which it was created. The authority cannot levy ad valorem taxes.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the North Fort Bend Water Authority in SECTION 1 (Sections 8813.006, 8813.102, 8813.110, and 8813.112, Special District Local Laws Code) of this bill.

Rulemaking authority is expressly granted to the board of directors of the North Fort Bend Water Authority in SECTION 1 (Sections 8813.056, 8813.103, and 8813.105, Special District Local Laws Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. AMENDMENT. Amends Subtitle H, Title 6, Special District Local Laws Code, by adding Chapter 8813, as follows:

CHAPTER 8813. NORTH FORT BEND WATER AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8813.001. DEFINITIONS. Defines "authority," "board," "commission," "director," "district," "groundwater reduction plan," "local government," "person," "subsidence," "system," "water," and "well."

Sec. 8813.002. NATURE OF AUTHORITY. Provides that the North Fort Bend Water Authority (authority) is a regional water authority in Fort Bend and Harris counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, including certain specified purposes.

Sec. 8813.003. CONFIRMATION ELECTION NOT REQUIRED. Provides that an election to confirm the creation of the authority is not required.

Sec. 8813.004. INITIAL AUTHORITY TERRITORY. (a) Provides that the authority is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the authority; the right of the authority to issue any type of bond or note for the purposes for which the authority is created or to pay the principal of and interest on a bond or note; the right of the authority to impose or collect a fee, user fee, rate charge, or special assessment; or the legality or operation of the authority.

(c) Provides that all of the territory of a local government created after the effective date of the Act creating this chapter that encompasses any territory within the boundaries of the authority, immediately on the creation and without any action required of the authority, is subject to all of the rights, powers, privileges, and rules of the authority to the same extent as the territory was before the local government was created.

Sec. 8813.005. EXCLUSION OF CERTAIN TERRITORY. (a) Authorizes a district or municipality that, on the effective date of the Act creating this chapter, is located, wholly or partly, within the territory described by Section 2(a) or (b) of the Act creating this chapter to petition for exclusion of all of its territory from the authority's boundaries by a petition signed by a majority of the members of the governing body of the district or municipality.

(b) Requires the board of directors of the authority (board) to, not later than the 120th day of the effective date of the Act creating this chapter, grant the petition and order the territory excluded if the petition meets certain requirements. Requires the board, if the board grants the petition, to file for recording in the office of the county clerk for the applicable county or counties a copy of the order and a description of the authority's boundaries as they exist after the exclusion of the territory.

(c) Provides that if a district or municipality is excluded from the authority's boundaries under this section, the authority is not required to provide water or any other service to the district or municipality or include the district or municipality in any groundwater reduction plan adopted or implemented by the authority.

(d) Prohibits the authority, if a district or municipality files a petition for exclusion under this section not later than the 60th day after the effective date of the Act creating this chapter, from imposing fees, user fees, rates, charges, or special assessments on the district or municipality after the petition is filed with the authority unless the district or municipality is annexed by the authority under Section 8813.006.

(e) Authorizes the authority, if a district or municipality excluded from the authority's boundaries under this section petitions the authority to be annexed under Section 8813.006, to annex the district or municipality. Authorizes the authority, as a condition of annexation, to require terms and conditions the board considers appropriate. Authorizes the authority to require the district or municipality to pay the authority the fees, user fees, charges, and special assessments, with interest, that, as determined by the authority, the district or municipality would have been charged by the authority if the district or municipality had not been excluded from the authority under this section.

Sec. 8813.006. ANNEXATION. (a) Provides that, except to the extent the authority agrees in writing, a municipality's annexation of territory within the authority does not

affect the authority's powers inside or outside the annexed territory, the authority's boundaries or contracts, or the authority's ability to assess fees, user fees, rates, charges, or special assessments inside or outside the territory annexed by the municipality.

(b) Authorizes territory to be annexed to the authority, regardless of whether the territory is contiguous to the authority.

(c) Authorizes the authority, in addition to the authority granted by Subsection (b), regardless of whether the territory is contiguous to the authority, to annex some or all of the territory located within a district or municipality if the district or municipality files with the authority a petition requesting the annexation signed by a majority of the members of the governing body of the district or municipality. Requires the petition to include an accurate legal description of the boundaries of the territory to be included. Requires the authority, if the authority has bonds, notes, or other obligations outstanding, to require the petitioning district or municipality to be obligated to pay its share of the principal of the interest on the outstanding bonds, notes, or other obligations, and related costs. Authorizes the board to grant the petition and order the territory described by the petition annexed to the authority if it is feasible, practicable, and to the advantage of the authority.

(d) Provides that any territory that a district located within the authority annexes becomes territory of the authority on the effective date of the annexation without any action required of the authority. Authorizes the authority, by rule, to require all districts located within the authority to send the authority written notice of the effective date of an annexation and require the districts to send to the authority copies of any necessary documents describing the annexed land and describing the districts' boundaries as they exist after inclusion of the annexed land.

(e) Provides that the annexation to the authority of territory under this section does not affect the validity of the authority's bonds issued before or after the annexation.

(f) Provides that a municipality that annexes territory of the authority for limited purposes under Subchapter F (Limited Purpose Annexation), Chapter 43, Local Government Code, does not have the right to receive notices from the authority under Section 8813.103(c), participate in the appointment of directors under Subchapter B, or receive information about or have the opportunity to fund its share of capital costs in the manner provided by the authority under Section 8813.104.

Sec. 8813.007. **APPLICABILITY OF OTHER LAW.** (a) Provides that except as otherwise provided by this chapter, Chapter 49 (Provisions Applicable to All Districts), Water Code, applies to the authority.

(b) Provides that this chapter does not prevail over or preempt a provision of Chapter 36 (Groundwater Conservation Districts), Water Code, Chapter 8801 (Harris-Galveston Coastal Subsidence District) of this code, or Chapter 1045 (relating to the Fort Bend Subsidence District), Acts of the 71st Legislature, Regular Session, 1989, that is being implemented by the Harris-Galveston Coastal Subsidence District or Fort Bend Subsidence District, as applicable.

Sec. 8813.008. **FINDING OF BENEFIT.** Provides that all the land, property, and persons included within the boundaries of the authority will be directly benefited by the works, projects, improvements, and services to be provided by the authority. Provides that the authority is created to serve a public use and benefit. Provides that the creation of the authority will serve to promote the health, safety, and general welfare of persons within the authority and the general public. Provides that any fees, user fees, rates, charges, or special assessments imposed by the authority under this chapter are necessary to pay for the costs of accomplishing the purposes of the authority including the reduction of groundwater withdrawals, the facilitation and compliance with the requirements of the

Fort Bend Subsidence District or the Harris-Galveston Coastal Subsidence District, as applicable, and the provision of services, facilities, and systems.

[Reserves Sections 8813.009-8813.020 for expansion.]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8813.021. INITIAL DIRECTORS. (a) Sets forth the specifically named members of the initial board.

(b) Sets forth the expiration dates for the terms of the initial directors.

Sec. 8813.022. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 8813.023-8813.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8813.051. DIRECTORS; TERMS. (a) Provides that the authority is governed by a board of seven directors.

(b) Provides that the directors serve staggered four-year terms that expire May 15 of even-numbered years.

Sec. 8813.052. ELIGIBILITY TO SERVE AS DIRECTOR. (a) Sets forth the qualifications a person must possess to serve as a director of the authority.

(b) Sets forth the qualifications for a director representing a precinct that includes any part of the City of Fulshear.

Sec. 8813.053. DISQUALIFICATION OF DIRECTORS. Provides that the common law doctrine of incompatibility does not disqualify an official or employee of a public entity from serving as a director of the authority. Prohibits a director who is also an officer or employee of a public entity from participating in the discussion of or vote on a matter regarding a contract with that public entity.

Sec. 8813.054. CONFLICTS OF INTEREST. Provides that Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, governs conflicts of interest of board members.

Sec. 8813.055. SINGLE-MEMBER DIRECTOR PRECINCTS. (a) Provides that the authority is divided into seven single-member director precincts, as described by Section 3 of the Act creating this chapter.

(b) Authorizes the board to redraw the single-member director precincts in a manner that is reasonable and equitable after any change in the boundaries of the authority or by a resolution redrawing the director precincts adopted by a two-thirds majority of the board based on changed circumstances.

Sec. 8813.056. METHOD OF APPOINTMENT OF DIRECTORS. (a) Requires the governing bodies of the districts and municipalities located within each director precinct jointly to appoint one director to represent the precinct by a vote conducted as provided by this section.

(b) Provides that if a district or municipality is located within two or more director precincts, the district or municipality is considered, for purposes of this section, to be located only within the director precinct in which the greatest amount of territory of the district or municipality is located.

(c) Requires the board, for the appointment of a director for a director precinct, to determine the number of votes each district or municipality may cast. Sets forth the method for calculating the number of votes for a governing body of a district or municipality within the precinct. Requires the board to provide the presiding officer of each governing body of a district or municipality within each director precinct written notice of the number of votes computed for that governing body to cast.

(d) Requires the board to determine the amount of water usage of all districts and municipalities within each director precinct, for purposes of determining the number of votes a governing body may cast.

(e) Sets forth the procedures for submission of a nomination of a candidate by a governing body, the appointing of unopposed candidates, and the ballot procedures for opposed candidates.

(f) Prohibits an individual from being listed as a candidate for more than one director position. Requires the candidate, if the candidate is nominated for more than one director position, to choose to be on the ballot for only one director position.

(g) Sets forth the voting process for the governing body of each district or municipality, and the responsibilities of the board in counting the votes and submitting the results of the voting.

(h) Authorizes the board to adopt rules regarding the manner and timing of the determinations and calculations required by this section, the reporting of water usage to the authority by districts and municipalities, and the conduct and process of the appointment of directors.

Sec. 8813.057. VACANCY IN OFFICE OF DIRECTOR. Requires a vacancy in the office of director to be filled by appointment by the governing bodies of the districts and municipalities located within the director precinct. Sets forth the appointment process.

Sec. 8813.058. MEETINGS AND ACTIONS OF BOARD. (a) Authorizes the board to meet as many times each year as the board considers appropriate.

(b) Provides that directors of the authority are public officials and entitles them to governmental immunity for their actions in their capacity as directors and officers of the authority.

Sec. 8813.059. GENERAL MANAGER. (a) Authorizes the board to employ a general manager of the authority or contract with a person to perform the duties of general manager. Authorizes the board to delegate to the general manager full authority to manage and operate the affairs of the authority subject only to the orders of the board.

(b) Authorizes the board to delegate to the general manager the authority to employ necessary personnel and determine their compensation but not the general manager's own.

[Reserves Sections 8813.060-8813.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8813.101. GENERAL POWERS AND DUTIES. (a) Sets forth the powers of the authority.

(b) Provides that Sections 49.451-49.455 (regarding certain notice requirements), Water Code, do not apply to the authority.

(c) Prohibits the authority from providing retail water service to a retail user within the authority's boundaries that is located within the boundaries of a district or municipality on the date the authority awards a contract for the construction or executes a contract for the acquisition of water facilities to serve the retail user, with certain exceptions.

(d) Authorizes the authority to provide retail service to certain retail users without the written consent of the district or municipality.

Sec. 8813.102. **AUTHORITY RULES.** Authorizes the authority to adopt and enforce rules reasonably required to implement this chapter.

Sec. 8813.103. **FEES, USER FEES, RATES, AND CHARGES.** (a) Authorizes the authority to establish fees, user fees, rates, and charges and classifications of payers of fees and rates as necessary. Authorizes the authority to impose fees, user fees, rates, and charges on any person within the authority.

(b) Authorizes the authority to charge a well owner a certain fee. Provides that if ownership of a well changes, both the prior and subsequent well owners are liable to the authority, jointly and severally, for all fees, user fees, penalties, and interest associated with the well.

(c) Requires the board to make reasonable efforts to send districts and municipalities written notice of the date, time, and location of the meeting at which the board intends to adopt a proposed charge, and the amount of the proposed charge. Provides that the board's failure to comply with this subsection does not invalidate a charge adopted by the board.

(d) Requires the board to exempt wells located in Harris County or Fort Bend County which are not subject to certain groundwater reduction requirements from charge. Authorizes the board by rule to exempt any other classes of wells from the charge under Subsection (b). Prohibits the board from applying the charge under Subsection (b) to certain wells.

(e) Sets forth the conditions under which a well is subject to a groundwater reduction requirement for purposes of Subsection (d).

(f) Authorizes the authority to establish fees, user fees, rates, and charges that are sufficient to achieve certain goals.

(g) Authorizes the authority to charge rates established by the authority for water purchased from the authority.

(h) Authorizes the authority to impose fees, user fees, or charges for the importation of water into the authority's boundaries from a source located outside the authority's boundaries.

Sec. 8813.104. **PURCHASE OF WATER FROM ANOTHER ENTITY.** (a) Requires the authority, if the authority purchases water from another entity for resale to local governments, to use its best efforts in negotiating with the entity to determine the amount of capital costs included in any rates or charges paid by the authority. Requires the authority to determine the amount of expected capital costs of its own system.

(b) Requires the authority to provide each district or municipality within its boundaries information regarding the share of the capital costs to be paid by the district or municipality, and to provide each district or municipality the opportunity to fund its share of the capital costs. Authorizes a district or municipality to use any lawful source of revenue to pay any sums due to the authority.

(c) Authorizes the authority to adopt a procedure by which a district or municipality may receive a credit from the authority. Authorizes the board to adopt any other procedure necessary to accomplish the goals of this section.

(d) Authorizes the authority, in complying with this section, to use any reasonable basis to calculate from time to time the share of the capital costs of a district or municipality. Sets forth an authorized method of calculation.

(e) Provides that this section or any failure to comply with this section does not limit or impede the authority's ability to issue bonds or notes or invalidate any fees, user fees, charges, rates, or special assessments imposed by the authority.

Sec. 8813.105. ASSESSMENTS. (a) Authorizes the board to undertake improvement projects and services that confer a special benefit on all or a definable part of the authority. Authorizes the board to impose special assessments in that area to pay all or part of the cost of the project and services. Authorizes the board to provide improvements and services to an area outside the boundaries of the authority under certain conditions. Authorizes the authority to finance with special assessments any improvement project or service authorized by this chapter or any other applicable law.

(b) Authorizes financing with special assessments only after the board holds a public hearing on the issue.

(c) Sets forth the required procedures for providing notice of a hearing.

(d) Sets forth the required contents of the notice.

(e) Requires written notice containing the required information to be mailed by certified mail, return receipt requested, within a certain timeframe, to certain potentially affected persons.

(f) Authorizes the board to establish rules regarding procedures for a hearing. Authorizes a hearing on the services or improvement project to be adjourned from time to time. Requires the board, at the conclusion of a hearing conducted by the board, to make certain written findings and conclusions relating to the improvement project. Requires the hearings examiner, if the board appoints a hearings examiner to conduct the hearing, to file with the board a written report of the examiner's findings and conclusions.

(g) Requires the board, on adjournment of a hearing, or after consideration of the hearings examiner's report, to hear and rule on all objections to each proposed assessment. Authorizes the board to amend proposed assessments for any property. Requires the board, after hearing and taking action on objections, to impose the special assessments and specify the payment method. Authorizes the board to provide that those assessments be paid in periodic installments.

(h) Sets forth the required amount of periodic installments. Authorizes the board to provide interest charges or penalties for failure to make timely payment and to impose an amount to cover delinquencies and expenses of collection.

(i) Authorizes the board, if assessments are imposed for more than one service or improvement project, to provide that assessment collected for one service or improvement project may be borrowed to be used for another service or improvement project. Requires the board to establish a procedure for the distribution or use of any assessments in excess of those necessary to finance the services or improvement project for which those assessments were collected.

(j) Requires the board to apportion the cost of an improvement project or services in a certain manner. Sets forth the authorized and unauthorized methods of assessing the cost.

(k) Authorizes the area to be assessed to be the entire authority, part of the authority, or less than the area proposed in the notice of the hearing.

(l) Prohibits the area to be assessed from including property that is not within the authority boundaries at the time of the hearing unless there is an additional notice and hearing.

(m) Authorizes an owner of land annexed to the authority to waive the right to notice and a hearing and agree to the imposition and payment of assessments for the land. Authorizes a district or municipality to waive the right to notice and an assessment hearing for land within its boundaries annexed to the authority and to agree to imposition and payment of assessments for the annexed land.

(n) Requires the board to have prepared an assessment roll showing the assessments against each property and the basis for the assessment. Requires the assessment roll to be filed with the secretary of the board or other officer who performs the function of secretary and open for public inspection.

(o) Authorizes the board, after notice and hearing, to make supplemental assessments to correct certain omissions or mistakes in the assessment.

Sec. 8813.106. INTEREST AND PENALTIES. Authorizes the board to require the payment of interest on any late or unpaid fees, user fees, rates, charges, and special assessments due the authority, and sets a cap on the interest rate. Authorizes the board to impose penalties for failure to make a complete or timely payment. Authorizes the board to exclude a person, or any territory or well owned or controlled by a person, from the authority's groundwater reduction plan for failure to make a complete or timely payment to the authority.

Sec. 8813.107. ATTORNEY'S FEES AND COLLECTION EXPENSES. (a) Entitles the authority to reasonable attorney's fees incurred by the authority in enforcing its rules.

(b) Entitles the authority to collection expenses and reasonable attorney's fees incurred in collecting any delinquent fees, user fees, rates, and charges and any related penalties and interest.

Sec. 8813.108. LIEN. (a) Characterizes the fees and user fees and any related penalties and interest, and collection expenses and reasonable attorneys' fees as a first and prior lien against the well, superior to any other lien or claim with certain exceptions, and the personal liability of and a charge against the owner of the well.

(b) Provides that a lien under this section is effective from the date of the resolution or order of the board imposing the fee or user fee until the fee or user fee is paid.

(c) Sets forth the manner in which the board is authorized to enforce the lien.

Sec. 8813.109. ADMINISTRATIVE PENALTY; INJUNCTION. (a) Provides that a person who violates a rule or order of the authority is subject to an administrative penalty of not more than \$5,000, as determined by the board, for each violation or each day of a continuing violation. Requires the person to pay the penalty to the authority.

(b) Authorizes the authority to bring an action to recover the penalty in a district court in the county where the violation occurred.

(c) Authorizes the authority to bring an action for injunctive relief in a district court in the county where a violation of an authority rule or order occurs or is threatened to occur. Authorizes the court to grant to the authority, without bond or other undertaking, a prohibitory or mandatory injunction that the facts warrant, including a temporary restraining order, temporary injunction, or permanent injunction.

(d) Authorizes the authority to bring an action for an administrative penalty and injunctive relief in the same proceeding.

Sec. 8813.110. WATER SUPPLY OR DROUGHT CONTINGENCY PLANS. Authorizes the authority by rule to develop, prepare, revise, adopt, implement, enforce, and manage comprehensive water supply or drought contingency plans for the authority, or any portion of the authority.

Sec. 8813.111. GROUNDWATER REDUCTION PLAN. (a) Authorizes the authority to wholly or partly develop, prepare, revise, adopt, implement, enforce, manage, or participate in a groundwater reduction plan that is applicable only to the authority and one or more persons outside the authority. Authorizes the authority to require that any of certain groundwater reductions plans be the exclusive groundwater reduction plan that is binding and mandatory on some or all of the territory, persons, or wells located within the authority. Sets forth the authorized elements of a groundwater reduction plan.

(b) Authorizes fees, user fees, rates, charges, and special assessments of the authority to be imposed under this chapter for a person's participation in and benefit derived from the authority's groundwater reduction plan or a groundwater reduction plan in which the authority participates.

Sec. 8813.112. ACQUISITION, CONSTRUCTION, AND OPERATION OF SYSTEMS. (a) Authorizes the authority to perform certain functions related to the acquisition, design, financing, operation, maintenance, construction, lease, or sale of water treatment; to contract with any person to operate or maintain a water treatment or supply system; and to acquire water rights under any law or permit.

(b) Authorizes the authority to contract according to certain terms and conditions, with a person outside the authority's boundaries to allow the person, or the person's well, to be included in a groundwater reduction plan, to sell water to the person, and to sell the person available excess capacity or additional capacity of the authority's water treatment or supply system.

(c) Authorizes the authority by rule to require that the plans and specifications of certain water lines be approved by the authority before the commencement of the construction of the water lines.

Sec. 8813.113. SALE OR REUSE OF WATER OR BY-PRODUCT. Authorizes the authority to store, sell, or reuse water or any by-product from the authority's operations.

Sec. 8813.114. CONTRACTS. (a) Authorizes the authority to enter into a contract with a person for the performance of a purpose or function of the authority including certain specific contracts. Authorizes a contract to be of unlimited duration.

(b) Authorizes the authority to purchase, acquire, finance, or lease an interest in a project used for a purpose or function of the authority.

(c) Authorizes the authority to contract for certain goods and services.

(d) Authorizes the authority to purchase surplus property from this state, the United States, or another public entity through a negotiated contract without bids.

Sec. 8813.115. COOPERATION WITH AND ASSISTANCE OF OTHER GOVERNMENTAL ENTITIES. (a) Authorizes the board, in implementing this chapter, to cooperate with and request the assistance of the Texas Water Development Board, the Texas Commission on Environmental Quality, the United States Geological Survey, the Fort Bend Subsidence District, other local governments, and other agencies of the United States and this state.

(b) Authorizes the Fort Bend Subsidence District to enter into a interlocal contract with the authority to carry out the authority's purposes and authorizes the district to carry out the government functions and services specified in the contract.

(c) Authorizes the board to consider, as a cost-saving measure, the usefulness of water supply studies and plans prepared by or on behalf of the North Harris County Regional Water Authority, the West Harris County Regional Water Authority, the City of Houston, or other governmental entities to the extent those studies or plans are available and applicable to the authority.

Sec. 8813.116. GIFTS AND GRANTS. Authorizes the authority to accept a gift or grant from money collected by the Fort Bend Subsidence District to fund the construction, maintenance, or operation of a water treatment or supply system.

Sec. 8813.117. EXPENDITURES. (a) Authorizes the authority's money to be disbursed only by certain instruments or authorizations.

(b) Requires disbursements of the authority to be signed by at least a majority of the directors. Authorizes the board, by resolution, to allow certain employees of the authority to sign disbursements, except as limited by Subsection (c).

(c) Authorizes the board by resolution to allow disbursements to be transferred by federal reserve wire system to accounts in the name of the authority without the necessity of any directors signing the disbursement. Requires disbursements of the authority's money by federal reserve wire system to any accounts not in the name of the authority to be signed by at least a majority of the directors.

Sec. 8813.118. AD VALOREM TAXATION. Prohibits the authority from imposing an ad valorem tax.

Sec. 8813.119. EMINENT DOMAIN. (a) Authorizes the authority to acquire by condemnation any land, easements, or other property inside and outside the authority's boundaries for certain purposes. Authorizes the authority, when exercising the power of eminent domain, to elect to condemn either the fee simple title or a lesser property interest.

(b) Requires the authority to exercise the right of eminent domain in a certain manner. Provides that the authority is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party. Provides that the authority is not required to deposit more than the amount of an award in suit.

(c) Prohibits the authority from using the power of eminent domain for the condemnation of land for the purpose of acquiring rights to groundwater or the purpose of acquiring water or water rights.

[Reserves Sections 8813.120-8813.150 for expansion.]

SUBCHAPTER D. BONDS AND NOTES

Sec. 8813.151. REVENUE BONDS AND NOTES. (a) Authorizes the authority to issue bonds or notes payable solely from revenue from any source, including certain specific sources of revenue.

(b) Authorizes notes issued by the authority to be first or subordinate lien notes at the board's discretion.

(c) Authorizes the authority to exercise certain powers of an issuer in connection with any bonds or notes.

(d) Authorizes the authority to conduct a public, private, or negotiated sale of the bonds or notes.

(e) Authorizes the authority to enter into one or more indentures of trust to further secure its bonds or notes.

(f) Authorizes the authority to issue bonds or notes in more than one series as necessary to carry out the purposes of this chapter. Authorizes the authority, in issuing bonds or notes secured by revenue of the authority, to reserve the right to issue additional bonds or notes secured by the authority's revenue that are on a parity with or are senior or subordinate to the bonds or notes issued earlier.

(g) Authorizes a resolution of the board authorizing the bonds or notes or a trust indenture securing the bonds or notes to specify additional provisions that constitute a contract between the authority and its bondholders or noteholders.

(h) Authorizes bonds and notes to be additionally secured by deed of trust or mortgage on any or all of the authority's facilities.

(i) Authorizes the authority to issue refunding bonds or notes to refund any of its bonds or notes in any manner provided by law.

(j) Provides that Sections 49.153 (Revenue Notes), 49.154 (Bond Anticipation Notes; Tax Anticipation Notes), and 49.181 (Authority of Commission over Issuance of District Bonds), Water Code, do not apply to bonds or notes issued by the authority. Provides that Texas Commission on Environmental Quality rules regarding bonds or notes do not apply to bonds or notes issued by the authority.

SECTION 2. INITIAL AUTHORITY TERRITORY. (a) Sets forth the area initially included in the authority.

(b) Provides that in addition to the territory described by Subsection (a), the authority includes certain other territory.

(c) Sets forth certain areas, notwithstanding Subsections (a) and (b), which are not included in the authority.

(d) Sets forth certain areas, notwithstanding certain exclusions in Subsection (c), which are included in the authority.

SECTION 3. DESCRIPTION OF DIRECTOR PRECINCTS. (a)[sic] Sets forth the boundaries of the seven single-member director precincts.

SECTION 4. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. Provides that all requirements of the constitution and laws of this state and rules and procedures of the legislature with respect to notice, introduction, and passage of this Act are fulfilled.

SECTION 5. EFFECTIVE DATE. Effective date: upon passage or September 1, 2005.