

BILL ANALYSIS

Senate Research Center

C.S.H.B. 725
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Natural Resources
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are approximately 1,300 active water districts within the State of Texas. These districts include municipal utility districts (MUDs), fresh water supply districts (FWSDs), and, among others, water control and improvement districts (WCIDs). In general, these districts have the authority to issue bonds and levy taxes in order to supply treated and untreated water, treat wastewater, implement drainage and flood control projects, develop and maintain parks and recreational facilities, and, in certain cases, build roads. Water districts are also political subdivisions of the State of Texas. As such, most water districts are governed by elected boards that have the authority to adopt and enforce a variety of rules and regulations.

C.S.H.B. 725 is an omnibus bill proposing several changes relating to the powers and authority of water districts.

C.S.H.B. 725 amends current law relating to the operation, powers, and duties of certain water districts.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority expressly granted to the Texas Commission on Environmental Quality in SECTION 39 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 388.005, Health and Safety Code, by adding Subsections (g) and (h), as follows:

(g) Provides that except as provided by Subsection (h), this section does not apply to the electricity consumption of a district as defined by Section 36.001 (Definitions) or 49.001 (Definitions), Water Code, that relates to the operation and maintenance of facilities or improvements for wastewater collection and treatment, water supply and distribution, or storm water diversion, detention, or pumping.

(h) Requires a political subdivision that is a district as defined by Section 36.001 or 49.001, Water Code, at least once every five years, to, for district facilities described by Subsection (g), evaluate the consumption of electricity, establish goals to reduce the consumption of electricity, and identify and implement cost-effective energy efficiency measures to reduce the consumption of electricity.

SECTION 2. Amends Section 43.0751(a)(1), Local Government Code, as follows:

(a)(1) Redefines "district." Provides that the term does not include a special utility district operating under Chapter 65 (Special Utility Districts), Water Code, or a groundwater conservation district operating under Chapter 36 (Groundwater Conservation Districts), Water Code.

SECTION 3. Amends Section 43.0751, Local Government Code, by adding Subsection (r), to require that an area to be annexed for limited purposes under this section be in the municipality's extraterritorial jurisdiction, and contiguous to the corporate or limited purpose boundaries of the municipality, unless the conservation and reclamation district consents to noncontiguous annexation pursuant to a strategic partnership agreement with the municipality.

SECTION 4. Amend Section 375.161, Local Government Code, as follows:

Sec. 375.161. CERTAIN RESIDENTIAL PROPERTY EXEMPT. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Provides that this section does not apply to an impact fee, assessment, tax, or other requirement for payment for water, sewer, drainage, reclamation, flood control, road, or park and recreational services or improvements of a municipal management district operating under this chapter that provides, or proposes to provide, those services or improvements.

SECTION 5. Amends Section 552.014, Local Government Code, as follows:

Sec. 552.014. CONTRACTS WITH WATER DISTRICTS OR NONPROFIT CORPORATIONS. (a) Defines "project" in this section and makes a nonsubstantive change.

(b) Authorizes a municipality to enter into a contract with a district created under Article XVI, Section 59, Texas Constitution (water district) or with a corporation organized to be operated without profit under which the water district or corporation will acquire for the benefit of and convey to the municipality, either separately or together, one or more projects, rather than a water supply or treatment system, a water distribution system, a sanitary sewage collection or treatment system, or works or improvements necessary for drainage of land in the municipality.

(c) Authorizes the municipality, if the contract provides that the municipality assumes ownership of the project on completion of construction or at the time that all debt incurred by the water district or corporation in the acquisition, construction, improvement, or extension of the project is paid in full, to make payments to the water district or corporation for project services to part or all of the residents of the municipality, rather than if the contract provides that the municipality assumes ownership of the water, sewer, or drainage system on completion of construction or at the time that all debt incurred by the water district or corporation in the acquisition, construction, improvement, or extension of the system is paid in full, the municipality may make payments to the water district or corporation for water, sewer, or drainage. Authorizes the contract to provide for purchase of the project, rather than system, by the municipality through periodic payments to the water district or corporation in amounts that, together with the net income of the water district or corporation, are sufficient to pay the principal of and interest on the bonds of the water district or corporation as they become due. Authorizes the contract to provide:

(1) that any payments due under this section are payable from and are secured by a pledge of a specified part of the revenues of the municipality, including revenues from municipal sales and use taxes, rather than municipal water system, sewer system, or drainage system;

(2) for the levying of a tax to make payments due under this section; or

(3) that the payments due under this section be made from a combination of revenues and taxes, rather than revenues from the system and taxes.

(d) Authorizes the contract to provide that the water district or corporation may use the streets, alleys, and other public ways and places of the municipality for project purposes, rather than water, sewer, or drainage purposes, for a period that ends at the time the indebtedness of the water district or corporation is paid in full and the municipality acquires title to the project, rather than system, in accordance with this section.

(e) Authorizes the contract to provide for the operation of the project, rather than system, by the municipality, and provides that, if so authorized, the municipality may operate the project, rather than system.

(f) Requires that a contract under this section be authorized by a majority vote of the governing body of the municipality.

(g) Provides that this section does not authorize a water district or corporation described by Subsection (b) to participate in a project that the water district or corporation is not authorized to participate in under other law.

SECTION 6. Amends Section 13.247, Water Code, by adding Subsections (a-1) and (a-2), as follows:

(a-1) Provides that Subsection (a-2) applies only to a municipality that:

(1) has a population of more than 95,000 and is in a county that has a population of more than 200,000 and borders Lake Palestine;

(2) has a population of more than 30,000 and is in a county that has a population of less than 90,000 and borders Lake Ray Hubbard;

(3) has a population of more than 4,500 and that borders Lake Lyndon B. Johnson, and is located in a county that has a population of less than 45,000 and in which at least one state park and one national wildlife refuge are located; or

(4) has a population of less than 3,000 and is located wholly or partly in a county with a population of more than 1.7 million and that is adjacent to a county with a population of more than two million.

(a-2) Authorizes a municipality described by Subsection (a-1), notwithstanding Subsection (a), to provide retail water and sewer utility service in an area certificated to another retail public utility without first having obtained from the Texas Commission on Environmental Quality (TCEQ) a certificate of public convenience and necessity that includes the area to be served if the area is located within the boundaries of the municipality, and the municipality provides notice to TCEQ and the other retail public utility before the municipality begins providing service to the area.

SECTION 7. Amends Section 36.0151, Water Code, by adding Subsections (c) and (d) as follows:

(c) Prohibits TCEQ from creating a groundwater conservation district under this section in a county:

(1) in which the annual amount of surface water used is more than 50 times the annual amount of groundwater produced;

(2) that is located in a priority groundwater management area; and

(3) that has a population greater than 2.3 million.

(d) Provides that to the extent of a conflict between this section and Section 35.012 (Creation of District in Priority Groundwater Management Area), this section prevails.

SECTION 8. Amends Section 49.059, Water Code, as follows:

Sec. 49.059. New heading: TAX ASSESSOR AND COLLECTOR. (a) Authorizes a district or authority created by authority of either Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution (district) to employ or contract with any person to serve as its tax assessor and collector who is an individual certified as a registered Texas assessor-collector, or a firm, organization, association, partnership, corporation, or other legal entity if an individual certified as a registered Texas assessor-collector owns an interest in or is employed by the firm, organization, association, partnership, corporation, or other legal entity.

(b) Provides that a tax assessor and collector employed or contracted for under this section is not required to be a natural person.

(c) Requires a firm, organization, association, partnership, corporation, or other legal entity serving as district tax assessor and collector to give a bond as required by Section 49.057 (Management of District) for a natural person.

(d) Creates this subsection from existing text. Authorizes no person to serve as tax assessor and collector of a district providing potable water or sewer utility services to household users if that person meets certain requirements, including being a natural person related within the third degree of affinity or consanguinity to any developer of property in the district, a member of the board, or the manager, engineer, or attorney for the district.

(e) Redesignates existing Subsection (b) as Subsection (e). Makes a conforming change.

(f) Redesignates existing Subsection (c) as Subsection (f). Makes a conforming change.

(g) Redesignates existing Subsection (d) as Subsection (g). Makes no further changes to this subsection.

SECTION 9. Amends Section 49.063, Water Code, as follows:

Sec. 49.063. NOTICE OF MEETINGS. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Provides that the validity of an action taken at a board meeting is not affected by:

(1) failure to provide notice of the meeting if the meeting is a regular meeting, rather than neither failure to provide notice of a regular meeting;

(2) an insubstantial defect in notice of the meeting, rather than nor an insubstantial defect in notice of any meeting; or

(3) failure of a county clerk to timely or properly post or maintain public access to a notice of the meeting if notice of the meeting is furnished to the county clerk in sufficient time for posting under Section 551.043(a) (relating to requiring that the notice of a meeting of a governmental body be posted in a place readily accessible to the general public) or 551.045 (Exception to General Rule; Notice of Emergency Meeting or Emergency Addition to Agenda), Government Code, rather than is required to affect the validity of any action taken at the meeting.

SECTION 10. Amends Sections 49.102(a), (b), (c), and (h), Water Code, as follows:

(a) Requires that an election be held within the boundaries of the proposed district on a uniform election date provided by Section 41.001 (Uniform Election Dates), Election Code, to determine if the proposed district shall be established and, if the directors of the district are required by law to be elected, to elect permanent directors before issuing any bonds or other obligations.

(b) Requires that notice of a confirmation or director election state the day and place or places for holding the election, the propositions to be voted on, and, if applicable, the number of directors to be voted on.

(c) Requires that the ballots, if the district has received an application by a write-in candidate, also have blank places after the names of the temporary directors in which a voter is authorized write the names of any candidates appearing on the list of write-in candidates required by Section 146.031, Election Code, rather than other persons for directors. Makes a nonsubstantive change.

(h) Requires the elected directors, unless otherwise agreed, to decide the initial terms of office by lot, with a simple majority of the elected directors serving until the second succeeding directors election and the remaining elected directors serving until the next directors election.

SECTION 11. Amends Sections 49.103(a) and (b), Water Code, as follows:

(a) Requires the members of the board of a district, except as provided by Section 49.102, to serve staggered four-year terms, rather than serve for four-year terms.

(b) Requires an election, after confirmation of a district, to be held on the uniform election date, provided by Section 41.001, Election Code, rather than established by the Election Code, in May of each even-numbered year to elect the appropriate number of directors. Makes a nonsubstantive change.

SECTION 12. Amends Subchapter D, Chapter 49, Water Code, by adding Section 49.1045, as follows:

Sec. 49.1045. CERTIFICATION OF ELECTION RESULTS IN LESS POPULOUS DISTRICTS. (a) Provides that this section applies only to a district that has 10 or fewer registered voters, and holds an election jointly with a county in which the district is wholly or partly located.

(b) Authorizes a district to provide for an inquiry into and certification of the voting results of an election under this section if:

(1) the election results indicate that the number of votes cast in the election was greater than the number of registered voters in the district;

(2) the board determines that the election results are likely to be disputed in court; and

(3) the board can determine from the official list of registered voters prepared by the county voter registrar or county elections administrator for the district election which voters were qualified to vote in the district election and can determine from the signature roster from the joint election who voted in the joint election.

(c) Requires the board by rule, to certify the district votes, to adopt a procedure to determine for each person who signed the signature roster as a voter in the joint election whether the person's address on the day of the election was in the district, and how the person voted in the district election.

(d) Provides that the certified votes are the official election results.

(e) Provides that certification of the results under this section does not preclude the filing of an election contest.

SECTION 13. Amends Sections 49.105(c) and (d), Water Code, as follows:

(c) Authorizes, rather than requires, the vacancy or vacancies, if the number of directors is reduced to fewer than a majority or if a vacancy continues beyond the 90th day after the date the vacancy occurs, to be filled by appointment by the Texas Natural Resource Conservation Commission (TNRCC) if the district is required by Section 49.181 to obtain TNRCC approval of its bonds or by the county commissioners court if the district was created by the county commissioners court, regardless of whether a petition has been presented to the board under Subsection (b).

(d) Provides that in the event of a failure to elect one or more members of the board of a district resulting from the absence of, or failure to vote by, the qualified voters in an election held by the district, the current members of the board or temporary board holding the positions not filled at such election shall be deemed to have been elected, rather than reelected and shall serve an additional term of office, or, in the case of a temporary board member deemed elected under this subsection, the initial term of office.

SECTION 14. Amends Section 49.108, Water Code, by adding Subsections (g), (h), and (i), as follows:

(g) Requires that a substantially final form of the contract, on or before the first day for early voting by personal appearance at an election held to authorize a contract, be filed in the office of the district and be open to inspection by the public. Provides that the contract is not required to be attached as an exhibit to the order calling the election to authorize the contract.

(h) Authorizes a single contract to contain multiple purposes or provisions for multiple facilities authorized by one or more constitutional provisions. Authorizes the contract to generally describe the facilities to be acquired or financed by the district without reference to specific constitutional provisions. Authorizes a contract described by this subsection to be submitted for approval in a single proposition at an election.

(i) Provides that a contract between districts to provide facilities or services is not required to specify the maximum amount of bonds or expenditures authorized under the contract if:

(1) the contract provides that the service area cannot be enlarged without the consent of at least two-thirds of the boards of directors of the districts that are included in the service area as proposed to be enlarged, or served by the facilities or services provided in the contract;

(2) the contract provides that bonds or expenditures, payable wholly or partly from contract taxes, are issued or made on an emergency basis, or to purchase, construct, acquire, own, operate, repair, improve, or extend services or facilities necessary to comply with changes in applicable regulatory requirements; or

(3) the contract provides that the bonds or expenditures require prior approval by any district that is obligated to pay debt service on those bonds or to pay for those expenditures wholly or partly with contract taxes.

SECTION 15. Amends Subchapter D, Chapter 49, Water Code, by adding Sections 49.109, 49.110, 49.111, 49.112, and 49.113, as follows:

Sec. 49.109. AGENT DURING ELECTION PERIOD. Authorizes the board to appoint a person, including a district officer, employee, or consultant, to serve as the district's

agent under Section 31.123 (Appointment of Agent During Election Period), Election Code.

Sec. 49.110. ELECTION JUDGE. (a) Provides that the notice requirements for the appointment of a presiding election judge under Section 32.009 (Notice of Appointment), Election Code, do not apply to an election held by a district.

(b) Requires a person, to serve as an election judge in an election held by a district, to be a registered voter of the county in which the district is wholly or partly located. Provides that to the extent of any conflict with Section 32.051 (General Eligibility Requirements), Election Code, this section controls.

Sec. 49.111. EXEMPTIONS FROM USE OF ACCESSIBLE VOTING SYSTEMS. (a) Provides that notwithstanding Sections 61.012 (Access by Persons With Disabilities) and 61.013 (Access by Persons With Disabilities: Elections of Certain Political Subdivisions), Election Code, a district is exempt from the acquisition, lease, or use of an electronic voting system for an election if:

(1) the election is a confirmation election or an election held jointly with a confirmation election on the same date and in conjunction with the confirmation election, except for an election in which a federal office appears on the ballot;

(2) the most recently scheduled district directors' election was not held, as provided by Section 2.053(b) (relating to providing that if a declaration is made, the election is not held), Election Code; or

(3) fewer than 250 voters voted at the most recently held district directors' election.

(b) Requires a district eligible for the exemption under Subsection (a) to publish notice in a newspaper of general circulation in an area that includes the district or mail notice to each voter in the district regarding the district's intention to hold an election without providing a voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance. Requires that the notice be published or mailed not later than the later of the 75th day before the date of the election, or the date on which the district adopts the order calling the election.

(c) Requires that the notice required by Subsection (b) provide that any voter in the district is authorized to request the use of a voting station that meets the accessibility requirements for voting by a person with a disability, and provide information on how to submit such a request.

(d) Requires the district to comply with a request for an accessible voting station if the request is received not later than the 45th day before the date of the election.

Sec. 49.112. CANCELLATION OF ELECTION; REMOVAL OF BALLOT MEASURE. Authorizes the board by order or resolution, before the first day of early voting by personal appearance, to cancel an election called at the discretion of the district or to remove from the ballot a measure included at the discretion of the district. Requires that a copy of the order or resolution be posted during the period for early voting by personal appearance and on election day at each polling place that is used or that would have been used in the election.

Sec. 49.113. NOTICE FOR FILING FOR PLACE ON BALLOT. Requires that a notice required by Section 141.040 (Notice of Deadlines), Election Code, be posted at the district's administrative office in the district or at the public place established by the district under Section 49.063 (Notice of Meetings) of this chapter not later than the 30th

day before the deadline for a candidate to file an application for a place on the ballot of a district directors' election.

SECTION 16. Amends Section 49.151(c), Water Code, as follows:

(c) Authorizes the board to allow disbursements of district money to be transferred by federal reserve wire system or by electronic means. Authorizes the board by resolution to allow the wire or electronic transfers to accounts in the name of the district or accounts not in the name of the district.

SECTION 17. Amends Sections 49.154(a) and (c), Water Code, as follows:

(a) Authorizes the board to declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the district payable in whole or in part from taxes or to meet any other needs of the district and to issue tax anticipation notes or bond anticipation notes rather than issue negotiable tax anticipation notes or negotiable bond anticipation notes, to borrow the money needed by the district without advertising or giving notice of the sale. Provides that a district's bond anticipation notes or tax anticipation notes are negotiable instruments within the meaning and purposes of the Business & Commerce Code, notwithstanding any provision to the contrary in that code.

(c) Authorizes bond anticipation notes to be issued for any purpose for which bonds of the district may be issued or, rather than to have previously been voted or may be issued, for the purpose of refunding previously issued bond anticipation notes.

SECTION 18. Amends Section 49.181(a), Water Code, to prohibit a district from issuing bonds to finance a project for which TNRCC has adopted rules requiring review and approval unless TNRCC determines that the project, rather than determines that the project to be financed by the bonds, is feasible and issues an order approving the issuance of the bonds.

SECTION 19. Amends Section 49.194, Water Code, by amending Subsections (a), (b), and (c) and adding Subsection (h), as follows:

(a) Requires the board, after it has approved the audit report, except as provided by Subsection (h), to submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year. Makes nonsubstantive changes.

(b) Requires the board, except as provided by Subsection (h), if the board refuses to approve the annual audit report, to submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year, accompanied by a statement from the board explaining the reasons for its failure to approve the report. Makes nonsubstantive changes.

(c) Requires that copies of the audit report, the annual financial dormancy affidavit, or annual financial report described in Sections 49.197 (Financially Dormant Districts) and 49.198 (Audit Report Exemption) be filed annually in the office of the district.

(h) Requires a special water authority to submit a copy of the audit report to the executive director for filing not later than the 160th day after the date the special water authority's fiscal year ends.

SECTION 20. Amends Section 49.212, Water Code, by amending Subsection (d) and adding Subsections (d-1) and (d-2), as follows:

(d) Provides that a charge or fee is not an impact fee under that chapter if:

(1) the charge or fee is imposed by a district for construction, installation, or inspection of a tap or connection to district water, sanitary sewer, or drainage facilities, including all necessary service lines and meters, for capacity in storm

water detention or retention facilities and related storm water conveyances, or for wholesale facilities that serve such water, sanitary sewer, drainage, or storm water detention or retention facilities; and

(2) the charge or fee:

(A) does not exceed three times the actual, rather than actual and reasonable, costs to the district for such tap or connection;

(B) if made to a nontaxable entity for retail or wholesale service, does not exceed the actual costs to the district for such work and for all facilities that are necessary to provide district services to such entity and that are financed or are to be financed in whole or in part by tax-supported or revenue bonds of the district; or

(C) is, rather than if, made by a district for retail or wholesale service on land that at the time of platting was not being provided with water, wastewater, drainage, or storm water detention or retention service by the district. Deletes existing text requiring it not being deemed to be an impact fee under Chapter 395 (Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments), Local Government Code. Makes nonsubstantive changes.

(d-1) Authorizes actual costs under Subsection (d), as determined by the board in its reasonable discretion, to include nonconstruction expenses attributable to the design, permitting, financing, and construction of those facilities, and reasonable interest on those costs calculated at a rate not to exceed the net effective interest rate on any district bonds issued to finance the facilities.

(d-2) Creates this subsection from existing text. Authorizes a district to pledge the revenues of the district's utility system to pay the principal of or interest on bonds issued to construct the capital improvements for which a fee is imposed under Subsection (d), rather than for which a fee was imposed under this subsection, and requires that money received from the fees be considered revenues of the district's utility system for purposes of the district's bond covenants.

SECTION 21. Amends Section 49.2121(b), Water Code, to authorize a district to collect fees in certain ways, including, to collect a fee that is reasonably related to the expense incurred by the district in process the payment by credit card, rather than to collect a fee, not to exceed five percent of the amount of the fee or charge being paid, that is reasonably related to the expense incurred by the district in processing the payment by credit card.

SECTION 22. Amends Section 49.216, Water Code, by amending Subsection (e) and adding Subsection (f), as follows:

(e) Requires any peace officer who is directly employed by a district, before beginning to perform any duties and at the time of appointment, to take an oath and execute a bond conditioned on faithful performance of such officer's duties in the amount of \$1,000 payable to the district.

(f) Provides that a peace officer contracted for by the district, individually or through a county, sheriff, constable, or municipality, is an independent contractor, and the district is responsible for the acts or omissions of the peace officer only to the extent provided by law for other independent contractors.

SECTION 23. Amends Sections 49.273(d) and (e), Water Code, as follows:

(d) Requires the board, for contracts over \$75,000, rather than over \$50,000, to advertise the letting of the contract, including the general conditions, time, and place of opening of

sealed bids. Requires that the notice be published in one or more newspapers circulated in each county in which the district is located. Authorizes the notice, if there are more than four counties in the district, to be published in any newspaper with general circulation in the district. Requires that the notice be published once a week for two consecutive weeks before the date that the bids are opened, and the first publication is required to be not later than the 14th day, rather than the 21st, day before the date of the opening of the sealed bids. Deletes existing text providing that if one newspaper meets both of these requirements, publication in such newspaper is sufficient. Makes nonsubstantive changes.

(e) Requires the board, for contracts over \$25,000 but not more than \$75,000, rather than not more than \$50,000, to solicit written competitive bids on uniform written specifications from at least three bidders.

SECTION 24. Amends Section 49.351, Water Code, by amending Subsections (a), (b), (c), (f), (i), and (l) and adding Subsection (m), as follows:

(a) Authorizes a district providing potable water or sewer service to household users to, separately or jointly with another district, municipality, or other political subdivision, establish, operate, and maintain, finance with ad valorem taxes, mandatory fees, or voluntary contributions, and issue bonds for a fire department to perform all fire-fighting services within the district as provided in this subchapter and is authorized to provide for, rather than issue bonds or impose a mandatory fee, with voter approval, for financing a plan approved in accordance with this section, including, the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply.

(b) Requires the district or districts, after complying with the requirements of this section, rather than after approval of the district electors of a plan to operate, jointly operate, or jointly fund the operation of a fire department, and after complying with Subsections (g), (h), and (i), to provide an adequate system and water supply for fire-fighting purposes, authorizes the district or districts to purchase necessary land, construct and purchase necessary buildings, facilities, and equipment, and employ or contract with a fire department to employ all necessary personnel including supervisory personnel to operate the fire department.

(c) Requires that for financing a plan approved in accordance with this section, bonds and ad valorem taxes be authorized and may be issued or imposed, rather than requiring that bonds for financing a plan approved in accordance with this section be authorized and may be issued, and a district shall be authorized to levy a tax to pay the principal of and interest on such bonds, as provided by law for the authorization and issuance of other bonds and the authorization and imposition of other ad valorem taxes of the district. Makes nonsubstantive changes.

(f) Requires the district, before a district imposes an ad valorem tax or issues bonds payable wholly or partly from ad valorem taxes to finance the establishment of, rather than establishes, a fire department, contracts to operate a joint fire department, or contracts with another person to perform fire-fighting services within the district, to comply with Subsections (g), (h), and (i). Provides that a district that funds fire-fighting services with revenue, including mandatory fees or voluntary contributions, is not required to comply with Subsections (g), (h), and (i).

(i) Requires the district, after approval of a plan by TNRCC, the district to hold an election to approve the plan, approve bonds payable wholly or partly from ad valorem taxes, and impose ad valorem taxes for financing the plan, rather than the district submit to the electors of the district at the election, approve bonds or to impose a mandatory fee for financing the plan. Authorizes the election to be held in conjunction with an election required by Section 49.102, rather than if no bonds or fees are to be approved, at an election called for approval of the plan, which may be held in conjunction with an election required by Section 49.102, the proposition of whether or not the plan should be

implemented or entered into by the district. Deletes existing text relating to requiring that the ballots at the election be printed, as applicable, to provide for voting for or against the proposition: "The implementation of the plan for (operation/joint operation) of a fire department"; or "The plan and contract to provide fire-fighting services for the district."

(l) Authorizes a district providing potable water or sewer service to household users, rather than such a district notwithstanding the requirements of Subsections (a)-(j), to, as part of its billing process, collect from its customers a voluntary contribution on behalf of organizations providing fire-fighting services to the district.

(m) Requires the district, if a customer makes a partial payment of a district bill for water or sewer service and includes with the payment a voluntary contribution for fire-fighting services under Subsection (l), to apply the voluntary contribution first to the bill for water or sewer service, including any interest or penalties imposed. Requires the district to use any amount remaining for fire-fighting services.

SECTION 25. Amends Section 49.462(1), Water Code, to redefine "recreational facilities."

SECTION 26. Amends Subchapter N, Chapter 49, Water Code, by adding Section 49.4641 to read as follows:

Sec. 49.4641. RECREATIONAL FACILITIES ON SITES ACQUIRED FOR WATER, SEWER, OR DRAINAGE FACILITIES. (a) Authorizes a district to develop and maintain recreational facilities on a site acquired for the purpose of developing water, sewer, or drainage facilities.

(b) Provides that a district is not required to prorate the costs of a site described by Subsection (a) between the primary water, sewer, or drainage purpose and any secondary recreational facilities purpose if a licensed professional engineer certifies that the site is reasonably sized for the intended water, sewer, or drainage purpose.

(c) Authorizes the engineer to consider the following factors in determining the reasonableness of the size of a water, sewer, or drainage site:

- (1) the rules, regulations, and design guidelines or criteria of a municipality, county, or other entity exercising jurisdiction;
- (2) sound engineering principles;
- (3) the impact on adjoining property;
- (4) the availability of sites that meet the requirements for the proposed use;
- (5) requirements for sanitary control;
- (6) the need for a buffer zone to mitigate noise or for aesthetic purposes;
- (7) benefits to storm water quality; and
- (8) anticipated expansions of facilities resulting from future growth and demand for district facilities, or changes in regulatory requirements.

SECTION 27. Amends Sections 49.4645(a) and (b), Water Code, as follows:

(a) Authorizes a district all or part of which is located in Bastrop County, Bexar County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Montgomery County, or Fort Bend County to issue bonds supported by ad valorem taxes to pay for the development and maintenance of recreational facilities

only if the bonds are authorized by a majority vote of the qualified voters, rather than a majority vote of the qualified voters, of the district voting in an election held for that purpose. Prohibits the outstanding principal amount of bonds, notes, and other obligations issued to finance parks and recreational facilities supported by ad valorem taxes, rather than recreational facilities payable from any source, from exceeding an amount equal to one percent of the value of the taxable property in the district or, if supported by contract taxes under Section 49.108 (Contract Elections), from exceeding an amount equal to one percent of the sum of the value of the taxable property in the districts making payments under the contract as shown by the tax rolls of the central appraisal district at the time of the issuance of the bonds, notes, and other obligations or an amount greater than the estimated cost provided in the park plan under Subsection (b), whichever is smaller. Authorizes an estimate of the value provided by the central appraisal district to be used to establish the value of the taxable property in the district or districts under this section.

(b) Requires the board, on or before the 10th day before the first day for early voting by personal appearance at, rather than not later than the 10th day before, an election held to authorize the issuance of bonds for the development and maintenance of recreational facilities, to file in the district office for review by the public a park plan covering the land, improvements, facilities, and equipment to be purchased or constructed and their estimated cost, together with maps, plats, drawings, and data fully showing and explaining the park plan. Provides that the park plan is not part of the proposition to be voted on, does not create a contract with the voters, and may be amended at any time after the election held to authorize the issuance of bonds for the development and maintenance of recreational facilities provided under the plan_rather than and the park plan does not create a contract with the voters. Prohibits the estimated cost stated in the amended park plan from exceeding the amount of bonds authorized at that election. Makes nonsubstantive changes.

SECTION 28. Amends Section 51.072, Water Code, as follows:

Sec. 51.072. QUALIFICATIONS FOR DIRECTOR. (a) Creates this subsection from existing text. Requires that to be qualified for election as a director, a person is required to be a resident of the state, own land subject to taxation in a water control and improvement district (WCID) or be a qualified voter in the WCID, and be at least 18 years of age.

(b) Creates this subsection from existing text. Provides that Section 49.052 (Disqualification of Directors) does not apply to a WCID governed by this chapter whose principal purpose is providing water for irrigation.

SECTION 29. Amends Section 51.335, Water Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires a WCID to not usurp functions or duplicate a service already adequately exercised or rendered by the other governmental agency except under a valid contract with the other governmental agency, or as provided by Subsection (c).

(c) Authorizes a WCID to finance, develop, and maintain recreational facilities under Subchapter N (Recreational Facilities), Chapter 49 (Provisions Applicable to All Districts), even if similar facilities are authorized be provided by a political subdivision or other governmental entity included wholly or partly in the WCID.

SECTION 30. Amends Section 51.523, Water Code, as follows:

Sec. 51.523. BALLOTS. Requires that the ballot for an election under this subchapter be printed to provide for voting for or against substantially the proposition: "Designation of the area, issuance of bonds, levy of a tax to retire the bonds, and levy of a maintenance tax." Makes nonsubstantive changes.

SECTION 31. Amends Section 51.527, Water Code, by adding Subsection (c), as follows:

(c) Authorizes the board of directors of a WCID (WCID board), after bonds issued for the defined area or designated property are fully paid or defeased, to declare the defined area dissolved or to repeal the designation of the designated property. Requires the WCID board, after that declaration or repeal, to cease imposing any special taxes authorized under the adopted tax plan on the property located in the defined area or on the designated property.

SECTION 32. Amends Section 53.063(a), Water Code, to require a person, except as provided by Subsection (b) (relating to requiring a person to be a registered voter), to be qualified for election as a supervisor, to be certain things, including the owner of taxable property in the WCID or a qualified voter in the WCID.

SECTION 33. Amends Section 54.016(f), Water Code, as follows:

(f) Authorizes a city to provide in its written consent for the inclusion of land in a municipal utility district (MUD) that is initially located wholly or partly outside the corporate limits of the city that a contract ("allocation agreement") between the MUD and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the MUD. Makes a nonsubstantive change.

SECTION 34. Amends Section 54.236, Water Code, as follows:

Sec. 54.236. STREET OR SECURITY LIGHTING. (a) Creates this subsection from existing text. Authorizes a MUD, subject to the provisions of this section, to purchase, install, operate, and maintain street lighting or security lighting within public utility easements or public rights-of-way or property owned by, rather than within the boundaries of, the MUD.

(b) Creates this subsection from existing text. Prohibits a MUD from issuing bonds supported by ad valorem taxes to pay for the purchase, installation, and maintenance of street or security lighting, except as authorized by Section 54.234 or Subchapter N, Chapter 49.

SECTION 35. Amends Section 54.739, Water Code, as follows:

Sec. 54.739. SUBSTITUTING LAND OF EQUAL VALUE. Provides that after the MUD is organized and has obtained voter approval for the issuance of, or has sold, bonds payable wholly or partly from ad valorem taxes, rather than after the MUD is organized and acquires facilities with which to function for the purposes for which it was organized, and votes, issues and sells bonds for such purposes, land within the MUD boundaries subject to taxation that does not need or utilize the services of the MUD may be excluded and other land not within the boundaries of the MUD may be included within the boundaries of the MUD without impairment of the security for payment of the bonds or invalidation of any prior bond election, as provided by this section and Sections 54.740 (Requisites for Application for Exclusion) through 54.747 (Service to Included Land).

SECTION 36. Section 54.744, Water Code, is amended to read as follows:

Sec. 54.744. IMPAIRMENT OF SECURITY. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires that the lands proposed for inclusion, if the MUD has any outstanding bonds or contract obligations payable in whole or in part by a pledge of net revenues from the ownership or operation of the MUD's facilities at the time the board of directors of a MUD considers an application, be deemed to be sufficient to avoid an impairment of the security for payment of obligations of the MUD if the projected net revenues to be derived from the lands to be included during the succeeding 12-month period, as determined by the MUD's engineer,

equals or exceeds the projected net revenues that would otherwise have been derived from the lands to be excluded during the same period.

(c) Provides that in this section, the taxable value of included land means the market value of the land if, before or contemporaneously with the inclusion of the land in the MUD, the owner of the land waives the right to special appraisal of the land as to the MUD under Section 23.20 (Waiver of Special Appraisal), Tax Code.

SECTION 37. Repealer: Section 49.103(g) (relating to authorizing the district, if required under this section to change the terms of office of directors to four-year terms or to change the date on which the district holds a director election, to extend the terms of office of directors serving the district), Water Code.

SECTION 38. Provides that the legislature finds that an agreement entered into before September 1, 2011, by a municipality and a MUD is an allocation agreement only if the MUD is initially located wholly or partly outside the corporate limits of the municipality, the agreement strictly complies with the requirements of Section 54.016(f), Water Code, as that section existed immediately before the effective date of this Act, and the agreement is specifically designated by the parties to the agreement as an "allocation agreement" under Section 54.016(f), Water Code.

SECTION 39. Requires the Texas Commission on Environmental Quality, not later than December 1, 2011, to adopt any rules or amendments to existing rules necessary to implement Section 49.4641, Water Code, as added by this Act.

SECTION 40. (a) Effective date, except as provided by Subsection (b): September 1, 2011.

(b) Effective date, Sections 54.739 and 54.744, Water Code: upon passage or September 1, 2011.