

BILL ANALYSIS

Senate Research Center
82R13517 TJB-F

S.B. 1596
By: Wentworth
Intergovernmental Relations
4/8/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 572 (Public Utility Agencies for Provision of Water or Sewer Service), Local Government Code, authorizes two or more public entities to create a "public utility agency" to plan, finance, construct, own, operate, or maintain water supply and/or wastewater treatment facilities. To create an agency, the entities must publish notice of their intent to create the agency, and then they must adopt concurrent ordinances or resolutions approving creation of the agency. If 10 percent or more of the registered voters of an entity submit a referendum petition, the entity's participation in the agency is subject to a confirming election.

Chapter 572 allows a public entity to be added to or deleted from an existing public utility agency only through "re-creation" of the agency, with all of the public entities, providing notice of the "re-creation," allowing for submission of a referendum petition, and then adopting concurrent ordinances or resolutions. The term "re-creation" can cause confusion regarding the rights, obligations, and ongoing nature of a public utility agency. S.B. 1596 deletes the term "re-creation" with respect to changes in the public entities participating in the agency. In addition, S.B. 1596 provides that only a public entity proposing to be added to an existing public utility agency is required to publish notice and allow for submission of a referendum petition. The entities already participating in the agency would need to adopt concurrent ordinances or resolutions approving the added entity, but they would not be subject to the notice and referendum requirements.

As proposed, S.B. 1596 amends current law relating to changes in participation in public utility agencies.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 572.051(1), Local Government Code, redefine "concurrent ordinance."

SECTION 2. Amends Section 572.053, Local Government Code, as follows:

Sec. 572.053. New heading: CHANGES IN PUBLIC ENTITIES PARTICIPATING IN PUBLIC UTILITY AGENCY. Authorizes the public entities that participate in a public utility agency to by concurrent ordinances add a public entity to, or delete a public entity from, participation in the public utility agency, rather than authorizing the public entities that create a public utility agency to by concurrent ordinances re-create the agency by adding or deleting, or both, a public entity.

SECTION 3. Amends Section 572.054(a), Local Government Code, to require the governing body of each public entity to publish notice of its intention to create or be added to a public utility agency, rather than its intention to create a public utility agency, in a newspaper of general circulation in the county in which the entity is domiciled.

SECTION 4. Amends Section 572.055, Local Government Code, as follows:

Sec. 572.055. CONTENTS OF CONCURRENT ORDINANCE. Requires a concurrent ordinance creating a public utility agency under Section 572.052 (Creation of Public Utility Agency) or changing the public entities participating in an agency, rather than re-creating an agency, under Section 572.053 (Re-Creation of Public Utility Agency) to, as adopted by each public entity:

- (1) contain identical provisions;
- (2) define the boundaries of the agency to include the territory within the boundaries of each participating public entity as the boundaries are changed periodically;
- (3) designate the name of the agency; and
- (4) designate the number, place, initial term, and manner of appointment of directors in accordance with Section 572.057.

SECTION 5. Amends Section 572.056(a), Local Government Code, to prohibit the ordinance, if, before the date set for the adoption of a concurrent ordinance that creates or adds a public entity to the public agency, 10 percent of the registered voters of a public entity present a petition to the governing body of the entity requesting that a referendum be called, from taking effect unless a majority of the qualified voters of the entity voting in the election have approved the ordinance.

SECTION 6. Provides that Sections 572.053 (Re-Creation of Public Utility Agency), 572.054 (Notice), 572.055 (Contents of Concurrent Ordinance), and 572.056 (Petition and Referendum), Local Government Code, as amended by this Act, apply only to a public entity that participates in a public utility agency created or changed on or after the effective date of this Act.

SECTION 7. Effective date: upon passage or September 1, 2011.