

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 2507  
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Water & Rural Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Since the creation in 1965 of the Galveston County Water Authority, now the Gulf Coast Water Authority (GCWA), GCWA has seen its capacity and customer base grow significantly. In 2015, the legislature added to the board of directors who manage GCWA directors appointed by the commissioners courts of Brazoria and Fort Bend Counties. The water needs of the region served by GCWA have continued to increase and diversify, and interested parties report a need to have GCWA's boundaries reflect its service area, clarify the appointment and removal of directors to the board, clarify the role of certain directors appointed to represent agricultural and industrial interests on the board, and revise certain duties and powers of GCWA in order to most effectively represent its customers. S.B. 2507 seeks to address these issues.

As proposed, S.B. 2507 amends current law relating to the territory, powers, and administration of the Gulf Coast Water Authority.

### **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 Sections 2 and 3, Chapter 712, Acts of the 59th Legislature, Regular Session, 1965, as follows:

Sec. 2. Provides that the District's territory is coextensive with the boundaries of Brazoria, Fort Bend, and Galveston Counties, rather than requiring the District to be comprised of all of the territory contained within Galveston County, Texas, and requiring its boundaries to be the same as and coextensive with the boundaries of Galveston County.

Sec. 3. Requires the District, except as expressly limited by this Act, to have and exercise and provides that it is hereby vested with all rights, powers, privileges, and authority conferred by the General Laws of this State now in force or hereafter enacted applicable to municipal utility districts created under authority of Section 59 of Article XVI, Constitution of Texas, including without limitation those conferred by Chapters 49 and 54, Water Code, rather than Chapter 54, Water Code, as amended, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. Provides that without in any way limiting the generalization of the foregoing, it is expressly provided that the District is required to have, and is hereby authorized to exercise, the following rights, powers, privileges and functions:

(a) the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority granted by this Act and said General Laws and to exercise the power of eminent domain for such purposes; provided, however, that the District shall not have the power of eminent domain as to all or any part of the water supply, property, works or facilities of any private person or persons, or of any private or public

corporation or association engaged in the business of supplying water in Brazoria County, Fort Bend County, or Galveston County, Texas, rather than Galveston County, Texas, to any class of consumers for any use upon the effective date of this Act, but this provision is required not restrict the power of the District to acquire necessary crossing easements and rights-of-way;

(b)-(c) makes no changes to these subsections;

(d)-(e) makes conforming changes to these subsections;

(f)-(k) makes no changes to these subsections;

(l) makes conforming and nonsubstantive changes to these subsections;

(m) to borrow money for its corporate purposes and, without limiting the generality of the foregoing, to borrow money, apply for and receive loans, secure obligations under a loan or other contract for borrowed money with a pledge of district revenues or the proceeds of future borrowings, and accept grants or contributions, directly or indirectly, from persons, including the State of Texas, the United States of America, or from any corporation, agency, or entity created or designated by the State of Texas or the United States of America, and in connection with any such loan, grant, or contribution, to enter into such agreements as the State of Texas, the United States of America, or any such corporation, agency, or entity may require; and to make and issue its negotiable bonds or notes for money borrowed, in the manner and to the extent provided in this Act, and to refund or refinance any outstanding bonds, notes, or loans, and to make and issue its negotiable bonds or notes therefor in the manner provided in this Act.

SECTION 2. Amends Chapter 712, Acts of the 59th Legislature, Regular Session, 1965, amended by adding Sections 3B and 3C, as follows:

Sec. 3B. (a) Defines "person" for purposes of this section.

(b) Provides that this section does not apply to a contract for architectural or engineering services. Provides that Section 2254.004 (Contract For Professional Services of Architect, Engineer, or Surveyor), Government Code, applies to the procurement of architectural or engineering services.

(c) Provides that competitive bidding and contract procurement or delivery requirements otherwise applicable to the District do not apply to a contract or agreement made by the District with a person if:

(1) the contract or agreement relates to a project for the acquisition or construction of equipment or facilities for the production, treatment, transmission, or delivery of water; and

(2) payments made under the contract or agreement are for amounts substantially sufficient to finance a project described in Subdivision (1) of this subsection.

Sec. 3C. (a) Authorizes the Board by resolution to authorize the creation of a nonprofit corporation to assist and act for the District in implementing a project or providing a service authorized by this Act.

(b) Provides that the nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D (Local Government Corporations), Chapter 431, Transportation Code; and

(2) is authorized to implement any project and provide any service authorized by this Act.

(c) Requires the Board to appoint the board of directors of the nonprofit corporation. Requires the board of directors of the nonprofit corporation to serve at the will of the District and in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

(d) Prohibits the nonprofit corporation from:

(1) participating in a project that the District is not authorized to participate in;

(2) imposing taxes; or

(3) acquiring, constructing, or operating parks or recreational facilities.

SECTION 3. Amends Sections 4(a), (c), and (f), Chapter 712, Acts of the 59th Legislature, Regular Session, 1965, as follows:

(a) Requires the District to have no power or authority to levy and collect taxes on any property real, personal or mixed, within the boundaries of said District, and nor required to have power or authority to issue bonds or create indebtedness which would in any way be payable from ad valorem taxes levied by the District upon property within said District; and provided further that said District is required to have none of the powers conferred by General Law for the purposes of the collection, transportation, processing, disposal and control of domestic, industrial or communal wastes, and the gathering, conducting, directing and controlling of local storm waters, or other local harmful excesses of water except as directly related to the production and purification of water for agricultural, municipal, or industrial purposes, including the ownership, lease, or operation of a municipal wastewater treatment facility in which the effluent is used by the District for water reuse supply, rather than requiring the District to have no power or authority to levy and collect taxes on any property real, personal or mixed, within the boundaries of said District, and nor is the District required to have power or authority to issue bonds or create indebtedness which would in any way be payable from ad valorem taxes levied by the District upon property within said District; and provided further that said District is required to have none of the powers conferred by General Law for the purposes of the collection, transportation, processing, disposal and control of domestic, industrial or communal wastes, and the gathering, conducting, directing and controlling of local storm waters, or other local harmful excesses of water.

(c) Requires all relocation, raising, rerouting or changing the grade of, or altering the construction of certain projects, including any cemetery, in the event that the District in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder makes necessary such actions, to be accomplished at the sole expense of the District.

(f) Requires the powers, rights, privileges, and functions conferred upon the District to be subject to the continuing rights of supervision by the State, as provided by the Water Code, as amended, rather than requiring powers, rights, privileges, and functions conferred upon the District to be subject to the continuing rights of supervision by the State, which shall be exercised by the Texas Department of Water Resources, and requiring the District to obtain approval of its projects and to be supervised as provided by the Sections 54.516 and 54.517, Water Code, as amended.

SECTION 4. Amends Section 5, Chapter 712, Acts of the 59th Legislature, Regular Session, 1965, as follows:

(a) Creates this subsection from existing text providing that the management and control of the District is hereby vested in a Board of 10 directors (Board).

(b) Requires each director to be a resident of this state.

(c) Creates this subsection from existing text. Requires vacancies on the Board, whether by death, resignation or termination of the term of office, to be filled by appointment by the commissioners court that appointed the director for the unexpired term of the director.

(d) Authorizes a director to be removed by the commissioners court that appointed the director for inefficiency, neglect of duty, or misconduct of office. Requires the commissioners court to provide a director removed under this section written notice not later than the 30th day after the date the decision to remove is made and an opportunity to be heard in person or by counsel in a public hearing.

(e) Creates this subsection from existing text. Requires all terms of office to be staggered ending on August 31 of the appropriate year.

(f) Provides that six directors constitute a quorum. Provides that, except as otherwise provided, a majority of those directors present and qualified to vote is sufficient for final action on a matter before the Board.

SECTION 5. Amends Chapter 712, Acts of the 59th Legislature, Regular Session, 1965 by adding Sections 5C, 5D, 5E, 5F, and 5G, as follows:

Sec. 5C. (a) Provides that Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, does not apply to a director appointed to represent agricultural or industrial interests.

(b) Requires a director who has a financial interest in a contract considered by the District for the purchase of property or the construction of a facility to disclose the interest to the other directors and prohibits the director from voting on the contract.

Sec. 5D. (a) Authorizes the Board to hold an open or closed meeting by telephone conference call if at least five directors are present at the location where the meeting of the Board is held. Provides that a meeting held by telephone conference call is subject to the same notice requirements as other Board meetings and must be recorded. Requires each person who speaks in a meeting held by telephone conference call to be clearly identified. Provides that a director participating in a meeting held by telephone conference call is considered absent from any part of the meeting during which audio communication is lost.

(b) Provides that the authority to hold a meeting held by telephone conference call described by this section is in addition to authority described by Chapter 551 (Open Meetings), Government Code.

Sec. 5E. Provides that if the Board employs a general manager, the general manager is the chief executive officer of the District.

Sec. 5F. Provides that the District is not required to provide notice for the sale or disposal of District personal property if the personal property has a value of less than \$25,000.

Sec. 5G. (a) Authorizes the District to enter into a contract related to a water project located outside the District. Authorizes the District to enter into a local agreement with a political subdivision for a purpose related to a water project.

(b) Authorizes a contract under this section to use money appropriated by a political subdivision that is a party to the contract to pay for pre-development

costs, engineering, surveys, and the collection and compilation of data relating to conditions influencing determinations about the character and extent of proposed improvements, works, and facilities for the accomplishment of District purposes.

(c) Authorizes the District to contract or agree with an entity appropriating money under this section to receive a loan or money from other sources in return for services described by Subsection (a) of this section. Authorizes the contract or agreement to provide for the repayment by the District of money advanced as a loan from project revenues, bond proceeds, or other available money.

(d) Authorizes the District and a state agency or political subdivision to enter into a contract to jointly pay all or part of the cost of a water project or the operation of a water project in the same way that a political subdivision is authorized to contract with a state agency or political subdivision under Chapter 472 (Miscellaneous Provisions), Transportation Code, to jointly pay all or part of the cost associated with a state or local highway, turnpike, road, or street project.

SECTION 6. Amends Sections 7 and 8, Chapter 712, Acts of the 59th Legislature, Regular Session, 1965, as follows:

Sec. 7. Authorizes certain bonds to either be (1) sold for cash, at public or private sale, at such price or prices as the Board is required to determine, provided that the net effective interest rate, calculated in accordance with Chapter 1204 (Interest Rate), Government Code, rather than Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, V.T.C.S.), as now or hereafter amended is required not exceed ten (10) percent, or (2) issued on such terms as the Board is required to determine in exchange for property of any kind, real, personal or mixed or any interest therein which the Board is required to deem necessary for any such corporate purposes, or (3) issued in exchange for like principal amounts of other obligations of the District, matured or unmatured. Requires all such bonds to be authorized by resolution or resolutions of the Board, and to bear such date or dates, mature at such time or times, bear interest payable annually, semiannually, or otherwise, be in such denominations, be in such form, either coupon or registered, carry such registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds of one denomination for bonds of other denominations, be executed in such manner and be payable at such place or places within or without the State of Texas, as such resolution or resolutions may provide. Provides that any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract between the District and the holders thereof from time to time:

(a) reserving the right to redeem such bonds or requiring the redemption of such bonds, at such time or times, in such amounts and at such prices, as may be provided, rather than reserving the right to redeem such bonds or requiring the redemption of such bonds, at such time or times, in such amounts and at such prices, not exceeding 105 percent of the principal amount thereof, plus accrued interest, as may be provided;

(b)-(i) makes no changes to these subsections; and

(j) such other provisions, as the Board is authorized to approve, rather than such other provisions, not inconsistent with the provisions of this Act, as the Board is authorized to approve.

(k) Creates this subsection from existing text. 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 or to meet any other needs of the District and authorizes the Board to issue bond anticipation notes or enter into a loan to pay the costs to meet the emergency need, rather than authorizing 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 or to meet any other needs of the District.

Authorizes a loan under this section to be secured by a pledge of and made payable from district revenues or the proceeds of a future series of bonds.

(l)-(q) Creates these subsections from existing text and makes no further changes.

Sec. 8. (a) Creates this subsection from existing text. Provides that when any of such revenues are pledged to the payment of any bonds issued by said District or loans received by the District, rather than any bonds issued by said District, it is required to be the right and duty of the District's Board to cause to be fixed, maintained and enforced charges, fees or tolls for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the order or orders authorizing the issuance of said bonds.

(b) Creates this subsection from existing text. Requires the District, regardless of whether the revenues are pledged to the payment of bonds, to have the right to impose penalties for failure to pay, when due, such charges, fees or tolls, rather than requiring the District to have the right to impose penalties for failure to pay, when due, such charges, fees or tolls.

SECTION 7. Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 8. Effective date: upon passage or September 1, 2019.