



Item 20

Travis County Commissioners Court Agenda Request

Meeting Date: Tuesday, April 2, 2013
Prepared By/Phone Number: Deece Eckstein, 854-9754
Elected/Appointed Official/Dept. Head: Deece Eckstein, 854-9754
Commissioners Court Sponsor: Judge Biscoe

AGENDA LANGUAGE:

AT 11:00 A.M.:

CONSIDER AND TAKE APPROPRIATE ACTION ON LEGISLATIVE MATTERS, INCLUDING:

- A. UPDATE ON LEGISLATIVE ACTIVITIES;
- B. LEGISLATION RELATING TO WATER AND GROUNDWATER REGULATION IN WESTERN TRAVIS COUNTY, INCLUDING [SB 508](#), [HB 890](#), AND [HB 2640](#);
- C. LEGISLATION RELATING TO RESTRICTIONS ON LOCAL CONTROL OVER LAND USE PLANNING, INCLUDING [HB 3087](#), [HB 3088](#), [HB 3089](#), [HB 3090](#), AND [HB 3091](#) (THIS ITEM MAY BE TAKEN INTO EXECUTIVE SESSION UNDER THE CONSULTATION WITH ATTORNEY EXCEPTION);
- D. LEGISLATION RELATING TO RESTRICTIONS ON LOCAL CONTROL OVER ENVIRONMENTAL ENFORCEMENT, INCLUDING [HB 3117](#) AND [HB 3119](#);
- E. [HOUSE BILL 2899](#), RELATING TO THE ACCUMULATION AND PAYMENT OF SICK LEAVE FOR CERTAIN EMPLOYEES IN SHERIFF'S DEPARTMENTS IN CERTAIN COUNTIES (THIS ITEM MAY BE TAKEN INTO EXECUTIVE SESSION UNDER THE CONSULTATION WITH ATTORNEY EXCEPTION) ; AND,
- F. ADDITIONS TO THE PRIORITIES, POLICY POSITIONS AND THE POSITIONS ON OTHER PROPOSALS SECTIONS OF THE TRAVIS COUNTY LEGISLATIVE AGENDA.

SUMMARY AND IGR COORDINATOR RECOMMENDATION:

IGR recommends that the Court:

1. Authorize IGR to express the Court's concerns about HB 890/SB 508 and HB 2640 to the legislative authors.
2. Express its opposition to House Bills 3087, 3088, 3089, 3090, 3091, 3117 and 3119; and,
3. Approve the attached draft letter in opposition to HB 2289.

BACKGROUND:

1. The House and Senate come back from their Easter breaks and head into the most intense part of the session, with lots of committee hearings to move bills. IGR will be representing the Court in many hearings over the next few weeks, until House and Senate rules begin slowing down the process in May.
2. The 2014-2015 budget bill will be on the House floor this Thursday, April 4. Amendments were due a week in advance. It is expected that the floor debate will consume most of that day.
3. The *Texas Tribune* has created a helpful graphic summarizing the differences between the current (2012-2013) budget and the House and Senate proposals for 2014-2015. See Attachment A.
4. As of Thursday, March 28, 5,944 bills and joint resolutions have been filed. We are tracking 1,457 of them through the ATLAS system, and have received 1,404 analyses from the county's policy experts.

ISSUES AND OPPORTUNITIES:

5. [HB 890](#) (companion: [SB 508](#)), relating to the conversion of the West Travis County Public Utility Agency to the Hill Country Regional Water Authority and to the creation of the Hill Country Regional Water Authority; providing authority to issue revenue bonds or notes; granting the power of eminent domain; providing an administrative

penalty; providing authority to impose fees. Filed 1/31/13, referred to Special Purpose Districts Committee 2/19/13.

This bill converts the West Travis County Public Utility Agency to a conservation and reclamation district which will be called the Hill County Regional Water Authority. The Authority will be governed by a five-member board of directors chosen by the governing bodies of Hays County, West Travis County MUD No. 5, and the City of Bee Caves.

Governance concerns:

- *Non-elected board*
- *The service territory of the HCRWA will expand beyond the boundaries of the three entities, and those customers will have no say in management*

Policy issues:

- *The HCRWA probably needs eminent domain authority, but will only have it if the enabling legislation is passed by two-thirds majorities in both chambers of the Legislature*

6. [HB 2640](#), relating to the creation of the Western Travis County Groundwater Conservation District; providing general law authority to issue bonds and exercise the power of eminent domain; providing general law authority to impose assessments, fees, and taxes. Filed 3/6/13, referred to Special Purpose Districts Committee 3/18/13.

This bill establishes the Western Travis County Groundwater Conservation District (WTGCD). The WTGCD would have fee and taxing authority; it would also have eminent domain powers if the bill receives 2/3 vote of both houses. This district would include the area of the Central Texas Priority Groundwater Management Area except the area within the corporate city limits and the ETJ of the cities of Bee Cave, Lakeway, and the Village of the Hills.

Concerns:

- *The three cities that are being left out of the district are served by municipal water systems that use surface water. However, many landowners within those territories have and use wells, and should be subject to any groundwater conservation provisions.*

- *This is even more important in the extraterritorial jurisdictions of the cities. A better approach is to exempt only those areas that are currently, or in the future, served by a water system that relies on surface water.*
 - *Also, the drilling of any new wells should be prohibited in those areas.*
- *Eminent domain powers are only provided if this legislation passes by a 2/3 vote from both houses. The lack of this authority might impact their ability to affordably create infrastructure.*
- *This bill provides that if there is any conflict of law or ordinance with Travis County, the WTGCD rules prevail. This provision is unheard of in the creation of special purpose districts and is especially troubling as it targets Travis County only and not any of the other political subdivisions included in this district. It should be removed from the bill.*
- *It is unclear whether the general powers and duties provided by general law will give the district the ability to raise enough funds to operate adequately. It is more common for additional powers to be written into the legislation when creating new groundwater districts that go beyond the general provisions to ensure this ability.*

7. [HB 3087](#), relating to the condemnation of conservation easements. Filed 3/7/13, referred to Land & Resource Management Committee 3/19/13.

This bill provides that any government action limiting development of private property to under 50% of the land surface exclusive of the floodplain is a “conservation easement” for which the government must either get the owner’s consent (i.e., pay the landowner) or condemn the land and pay the owner for it. However, current statutes on conservation easements in Chapter 183 of the Texas Natural Resources Code prohibit counties from condemning for conservation easements, so the effect of the bill would be to prohibit a local government from taking any action at all limiting development to under 50% of the land area. Similar legislation

was filed in the past and vigorously opposed by local governments, as this should be.

8. [HB 3088](#), relating to liability of a political subdivision and potential penalties for a violation of certain laws relating to local permits. Filed 3/7/13, referred to Land & Resource Management Committee 3/19/13.

This bill subjects political subdivisions to monetary liability in disputes over grandfathering provisions. If a court rules in favor of the plaintiff, the government agency will now have to pay damages and attorney's fees. Currently, a court has discretion to award attorney's fees in a suit, but this will make it a statutory requirement. This legislation unnecessarily puts a county operating in good faith at risk and weakens its ability to defend responsible land use policies.

9. [HB 3089](#), relating to limitations on the application of certain municipal regulations to local permits. Filed 3/7/13, referred to Land & Resource Management Committee 3/19/13.

This bill would remove an exemption from the uniformity requirements to municipal zoning regulations that do not affect landscaping, tree preservation, open space, park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality. Although the bill affects municipalities, it is part of a package with HB 3090 and HB 3091 which would impact Travis County.

10. [HB 3090](#), relating to uniformity of requirements of certain municipal regulations to local permits. Filed 3/7/13, referred to Land & Resource Management Committee 3/19/13.

This bill seeks to expand the definition of "all permits in a series of permits" to include all revisions and modifications to projects with protected status. The bill also expands the developer's rights to take advantage of any changes to the zoning or property classifications of the property. In other words, it would stretch the concept of "grandfathering" a development application beyond all recognition.

Concerns:

This bill would effectively nullify development regulation. Jurisdictions, including Travis County, have amended their regulations over the years to increase the health and safety of their constituents. Under this legislation, an original project (which was reviewed and approved under the regulations that were in place at the time) could later be revised/modified into a totally new and different project and still be subject to the original regulations.

11. [HB 3091](#), relating to uniformity of requirements of certain municipal regulations to local permits, limitations on the application of certain municipal regulations to local permits, and liability of a political subdivision for a violation of certain laws relating to local permits; providing for damages/penalties. Filed 3/7/13, referred to Land & Resource Management Committee 3/19/13.

This bill combines the proposed legislative changes in HB 3088, HB 3089, and HB 3090 into one bill. If adopted, this bill would remove an exemption from the uniformity requirements to municipal zoning regulations, expand the definition of "all permits in a series of permits" to include all revisions and modifications to projects with protected status, stretch the concept of "grandfathering" a development application beyond all recognition and place a financial liability on the county in legal disputes over grandfathering provisions.

12. [HB 3117](#), relating to the authority of the attorney general to settle certain civil suits initiated by a local government. Filed 3/7/13, not yet referred.

Currently, the Texas Commission on Environmental Quality and local governments share authority to enforce the state's environmental laws. This bill would allow the Attorney General to intervene in and settle enforcement cases brought under the Water Code "without the consent or approval of the local government." All environmental civil actions would be subject to the unilateral control of the TCEQ and the Attorney General whose interests are not local, by definition. It is contrary to the enforcement provisions of many chapters of the Water Code and usurps the authority of the local governments to prosecute local claims. This bill, had

it been law at the time, would have allowed the Attorney General to compromise and settle Travis County's claims in the "Ranches at Hamilton Pool" case, for example.

13. [HB 3119](#), relating to contingent fee contracts for representation of local governments in certain environmental enforcement actions.

Currently, local governments seeking to enforce environmental laws can file suit themselves, or seek specialized legal representation. This occurs particularly in smaller counties that do not have the necessary legal depth and expertise in-house. Such counties hire outside lawyers, often with contingency contracts that promise the attorneys a portion of any monetary damages recovered in return for assuming all financial risk of conducting the lawsuit. This bill would prohibit local governments from using such contracts, having a chilling effect on the ability of local governments to enforce the state's environmental laws. This bill, had it been law at the time, would have disallowed Hays County from retaining its legal representation in the "Ranches at Hamilton Pool" case, for example.

FISCAL IMPACT AND SOURCE OF FUNDING: Not applicable.

REQUIRED AUTHORIZATIONS: None.

NAMES, PHONE NUMBERS AND EMAIL ADDRESSES OF PERSONS WHO MIGHT BE AFFECTED BY OR BE INVOLVED WITH THIS REQUEST:

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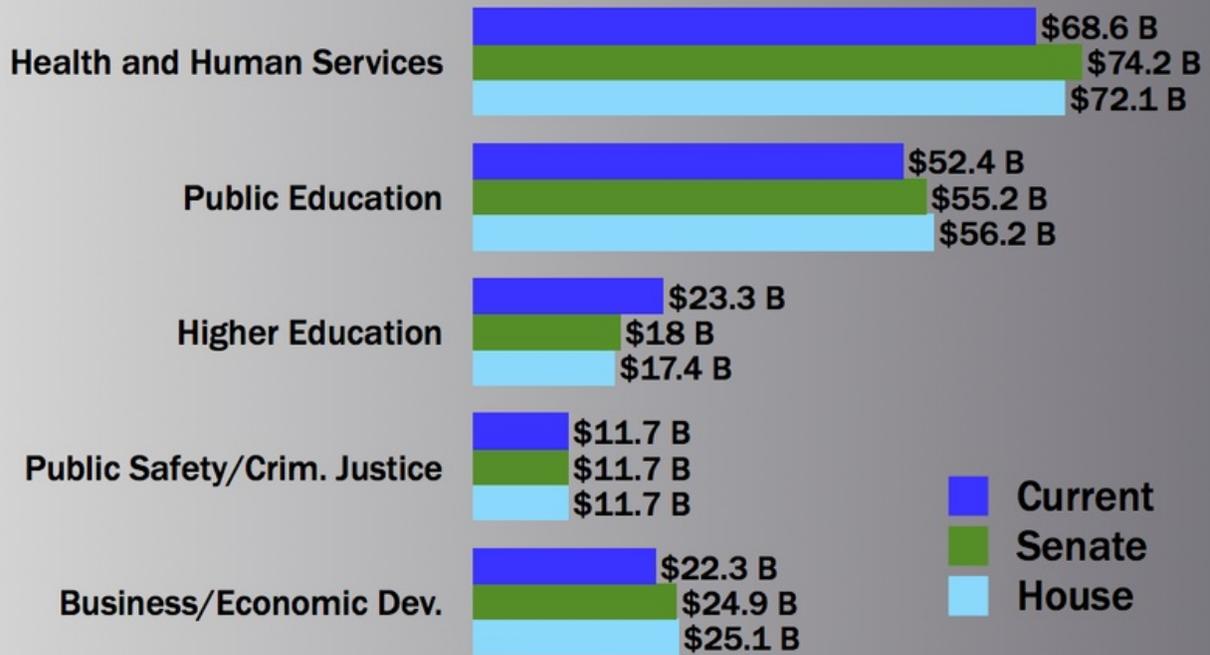
ATTACHMENTS:

1. *Texas Tribune*, 2014-2015 Budget Proposals – House vs. Senate, published March 27, 2013.
2. IGR Office, Statistics for the 83rd Texas Legislature, update March 28, 2013.

3. 83rd Texas Legislature, Water and Groundwater Regulation Bills, compiled March 27, 2013.
4. 83rd Texas Legislature, Restrictions on Local Control over Land Use Bills, compiled March 27, 2013.
5. 83rd Texas Legislature, Restrictions on Local Control over Environmental Enforcement Bills, compiled March 27, 2013.
6. Travis County IGR and PBO, Backup Materials on HB 2899, March 21, 2013.

ATTACHMENT 1

2014-15 Budget Proposals - House vs. Senate



AS OF	WEEK	1	2	3	4	5	6	7	8	9	10
THURSDAY		10-Jan	17-Jan	24-Jan	31-Jan	7-Feb	14-Feb	21-Feb	28-Feb	7-Mar	14-Mar
	HBs	446	550	686	845	1,035	1,282	1,582	2,001	2,841	3,862
	HJR s	39	43	44	51	58	63	72	83	106	130
	SB s	149	162	209	268	386	528	669	906	1,305	1,823
	SJR s	11	13	16	20	22	29	30	36	45	59
TOTAL	BILLS	645	768	955	1,184	1,501	1,902	2,353	3,026	4,297	5,874
TRAVIS COUNTY											
	TRACKED	167	281	305	368	474	551	636	712	1,064	1,428
	ANALYSES	109	137	281	346	430	485	627	723	878	1,135
	SUPPORT	0	0	0	0	0	0	0	0	0	3
	OPPOSE	0	0	0	0	1	1	1	2	14	14

AS OF	WEEK	11	12	13	14	15	16	17	18	19	20
THURSDAY		21-Mar	28-Mar	4-Apr	11-Apr	18-Apr	25-Apr	2-May	9-May	16-May	23-May
	HB s	3,891	3,898								
	HJR s	130	130								
	SB s	1,843	1,855								
	SJR s	61	61								
TOTAL	BILLS	5,925	5,944								
TRAVIS COUNTY											
	TRACKED	1,433	1,457								
	ANALYSES	1,320	1,404								
	SUPPORT	3	5								
	OPPOSE	14	14								

LEGISLATION RELATING TO WATER AND
GROUNDWATER REGULATION IN
WESTERN TRAVIS COUNTY, INCLUDING
[SB 508](#), [HB 890](#), AND [HB 2640](#);

By: Watson

S.B. No. 508

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the conversion of the West Travis County Public Utility
3 Agency to the Hill Country Regional Water Authority and to the
4 creation of the Hill Country Regional Water Authority; providing
5 authority to issue revenue bonds or notes; granting the power of
6 eminent domain; providing an administrative penalty; providing
7 authority to impose fees.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. (a) The West Travis County Public Utility Agency
10 is converted to a conservation and reclamation district to be known
11 as the Hill Country Regional Water Authority located in Hays and
12 Travis Counties.

13 (b) The Hill Country Regional Water Authority is not
14 required to hold an election to confirm the creation of the
15 authority.

16 SECTION 2. It is the intent and finding of the legislature
17 that the residents and customers served by the West Travis County
18 Public Utility Agency before the effective date of this Act will be
19 provided by the creation of the Hill Country Regional Water
20 Authority under this Act with the means to obtain services
21 authorized by Sections 8601.101 and 8601.102, Special District
22 Local Laws Code, as added by this Act, in the most effective and
23 efficient manner without the impairment of any existing contracts
24 or obligations of the West Travis County Public Utility Agency.

1 SECTION 3. The heading to Subtitle G, Title 6, Special
2 District Local Laws Code, is amended to read as follows:

3 SUBTITLE G. RIVER AUTHORITIES AND OTHER SPECIAL WATER AUTHORITIES

4 SECTION 4. Subtitle G, Title 6, Special District Local Laws
5 Code, is amended by adding Chapter 8601 to read as follows:

6 CHAPTER 8601. HILL COUNTRY REGIONAL WATER AUTHORITY

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 8601.001. DEFINITIONS. In this chapter:

9 (1) "Authority" means the Hill Country Regional Water
10 Authority.

11 (2) "Board" means the board of directors of the
12 authority.

13 (3) "Director" means a member of the board.

14 (4) "Member entity" means:

15 (A) Hays County;

16 (B) the City of Bee Cave; or

17 (C) West Travis County Municipal Utility
18 District No. 5.

19 Sec. 8601.002. NATURE OF AUTHORITY. The authority is a
20 conservation and reclamation district in Hays and Travis Counties
21 created under and essential to accomplish the purposes of Section
22 59, Article XVI, Texas Constitution.

23 Sec. 8601.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
24 The authority is created to serve a public use and benefit.

25 (b) All land and other property included in the territory of
26 the authority will benefit from the works and projects to be
27 accomplished by the authority under powers conferred by Section 59,

1 Article XVI, Texas Constitution, and powers granted under this
2 chapter.

3 (c) The authority is created to accomplish the control,
4 storage, conservation, preservation, distribution, and use of
5 water for domestic, industrial, municipal, and all other useful
6 purposes, including the protection, preservation, and restoration
7 of the purity and sanitary condition of water within this state, as
8 provided by Section 59, Article XVI, Texas Constitution.

9 Sec. 8601.004. AUTHORITY BOUNDARIES. The authority's
10 boundaries are coextensive with the boundaries of the territory
11 described by Certificate of Public Convenience and Necessity No.
12 13207, as those boundaries exist on the effective date of the Act
13 enacting this chapter and as they may be amended in accordance with
14 applicable law.

15 Sec. 8601.005. APPLICABILITY OF OTHER LAW. (a) Except as
16 otherwise provided by this chapter, Chapter 49, Water Code, applies
17 to the authority. For the purposes of Chapter 49, Water Code, the
18 authority is a special water authority.

19 (b) The following subchapters of Chapter 49, Water Code, do
20 not apply to the authority:

- 21 (1) Subchapter J;
22 (2) Subchapter L;
23 (3) Subchapter M; and
24 (4) Subchapter N.

25 SUBCHAPTER B. BOARD OF DIRECTORS

26 Sec. 8601.051. DIRECTORS; TERMS. (a) The authority is
27 governed by a board of five appointed directors.

1 (b) Except for a director serving on the initial board,
2 directors serve staggered four-year terms that expire September 30
3 of even-numbered years.

4 (c) A director may serve consecutive terms of office.

5 Sec. 8601.0515. INITIAL BOARD. (a) The initial board
6 consists of:

7 Position 1--Larry Fox;

8 Position 2--Ray Whisenant;

9 Position 3--Michael Murphy;

10 Position 4--Scott Roberts; and

11 Position 5--Bill Goodwin.

12 (b) Directors Fox, Whisenant, and Murphy serve initial
13 terms expiring September 30, 2016. Directors Roberts and Goodwin
14 serve initial terms expiring September 30, 2014.

15 (c) A vacancy in a position on the initial board shall be
16 filled in the manner provided by Section 8601.053 for making an
17 appointment to the same position, except that an appointment to
18 fill a vacancy in position 4 or 5 does not require that both
19 positions be seated simultaneously.

20 (d) This section expires September 30, 2016.

21 Sec. 8601.052. ELIGIBILITY TO SERVE AS A DIRECTOR. (a) To
22 be eligible to serve as a director, an individual must be at least
23 18 years of age.

24 (b) To be eligible to serve as a director:

25 (1) in position 1, 2, or 3, an individual must reside
26 in Hays or Travis County;

27 (2) in position 4, an individual must reside in Hays

1 County; or

2 (3) in position 5, an individual must reside in Travis
3 County.

4 Sec. 8601.053. METHOD OF APPOINTING DIRECTORS. (a)
5 Directors are appointed or recommended for appointment to the five
6 numbered positions on the board by the governing body of each member
7 entity as follows:

8 (1) West Travis County Municipal Utility District No.
9 5 shall appoint the director who serves in position 1;

10 (2) Hays County shall appoint the director who serves
11 in position 2;

12 (3) the City of Bee Cave shall appoint the director who
13 serves in position 3;

14 (4) Hays County shall appoint the director who serves
15 in position 4, subject to approval by the member entities as
16 provided by Subsection (b); and

17 (5) the City of Bee Cave shall appoint the director who
18 serves in position 5, subject to approval by the member entities as
19 provided by Subsection (b).

20 (b) The governing bodies of all member entities must approve
21 the appointments of directors for positions 4 and 5 before the
22 persons begin to serve as directors. Upon approval, directors
23 appointed to serve in those positions shall be seated
24 simultaneously.

25 (c) Except to fill a vacancy, the appointment of a director
26 must be made during September of the year in which that position's
27 term begins.

1 Sec. 8601.054. VACANCY. (a) A vacancy in a position on the
2 board shall be filled in the same manner as an appointment to the
3 board for that position, except that a vacancy in position 4 or 5
4 does not require that positions 4 and 5 be seated simultaneously.

5 (b) A person appointed to fill a vacancy serves for the
6 remainder of the vacated term.

7 (c) Section 49.105, Water Code, does not apply to the
8 authority.

9 Sec. 8601.055. SERVICE ON BOARD BY EMPLOYEE OR OFFICER OF
10 OTHER PUBLIC ENTITY. (a) The common law doctrine of
11 incompatibility does not disqualify an employee or official of a
12 public entity from serving as a director.

13 (b) An employee, officer, or member of the governing body of
14 a public entity may serve as a director but may not have a personal
15 interest in a contract executed by the authority other than as an
16 employee, officer, or member of the governing body of the public
17 entity. If a director has a personal interest in a contract
18 executed by the authority, the director must abstain from any
19 participation in the matter. A director is not required to abstain
20 from further participation in the matter if a majority of the
21 members of the board of directors have similar interests in the same
22 official action.

23 Sec. 8601.056. COMPENSATION; EXPENSES. (a) A director
24 serves without compensation but, subject to board approval, may be
25 reimbursed for travel or other expenses incurred on behalf of the
26 authority if the director presents the board with a verified
27 statement of the expenses.

1 (b) Section 49.060, Water Code, does not apply to the
2 authority.

3 Sec. 8601.057. QUORUM. A majority of the membership of the
4 board constitutes a quorum for any meeting, and a concurrence of a
5 majority of the entire membership of the board is sufficient for
6 transacting any business of the authority.

7 Sec. 8601.058. OFFICERS. (a) Every two years on the
8 appointment or reappointment of directors, the board shall meet and
9 elect a president, a vice president, a secretary, and any other
10 officers or assistant officers the board considers necessary.

11 (b) The president is the chief executive officer of the
12 authority, presides at all meetings of the board, and shall execute
13 all documents on behalf of the authority unless the board
14 authorizes the general manager or other representative of the
15 authority to execute a document or documents on behalf of the
16 authority.

17 (c) The vice president shall act as president in case of the
18 absence or disability of the president.

19 (d) The secretary is responsible for seeing that all records
20 and books of the authority are properly kept and may attest the
21 president's signature on documents.

22 (e) The board may appoint another director, the general
23 manager, or any employee as assistant or deputy secretary to assist
24 the secretary, and any such person shall be entitled to certify as
25 to the authenticity of any record of the authority, including all
26 proceedings relating to bonds, contracts, or indebtedness of the
27 authority.

1 Sec. 8601.059. REMOVAL FROM OFFICE. A director may be
2 removed from office at any time, with or without cause, by the
3 member entity that appointed the director.

4 Sec. 8601.060. EX OFFICIO BOARD MEMBERS. (a) This section
5 applies only to a person who is not an appointed director.

6 (b) Any of the following persons, or any of those persons'
7 designees, is entitled to serve as an ex officio, nonvoting member
8 of the board:

9 (1) the Hays County judge;

10 (2) the City of Bee Cave city administrator; or

11 (3) the president of the West Travis County Municipal
12 Utility District No. 5 Board of Directors.

13 (c) A person designated as an ex officio member of the board
14 is entitled to receive notice of and to attend the authority's board
15 meetings.

16 (d) A person designated as an ex officio member of the board
17 is not counted for purposes of determining a quorum under Section
18 8601.057.

19 SUBCHAPTER C. POWERS AND DUTIES

20 Sec. 8601.101. GENERAL POWERS AND DUTIES. (a) The
21 authority has all the rights, powers, privileges, functions, and
22 duties necessary and convenient to accomplish the purposes of this
23 chapter.

24 (b) Except as provided by this chapter, the authority has
25 the powers and duties provided by the general law of this state
26 applicable to a special water authority under Chapter 49, Water
27 Code.

1 (c) The authority retains all the rights, powers,
2 privileges, functions, obligations, and duties of the West Travis
3 County Public Utility Agency as in effect before the effective date
4 of the Act enacting this chapter.

5 Sec. 8601.102. WATER AND WASTE POWERS. (a) The authority
6 may supply water for municipal uses, domestic uses, power, and
7 commercial purposes, and all other beneficial uses or controls.

8 (b) The authority may not use groundwater from the Barton
9 Springs Segment of the Edwards Aquifer as a source of the
10 authority's water supply. This section shall not be interpreted to
11 prohibit an aquifer storage and recovery project or a recharge
12 improvement project that enhances water supply in the Barton
13 Springs Segment of the Edwards Aquifer.

14 (c) The authority may collect, transport, process, dispose
15 of, and control all domestic, industrial, or communal wastes
16 whether in fluid, solid, or composite state.

17 Sec. 8601.103. AUTHORITY POLICIES, RULES, AND BYLAWS. The
18 authority may adopt and enforce policies, rules, and bylaws
19 reasonably required to implement this chapter, including rules
20 governing procedures before the board and rules regarding
21 implementation, enforcement, and any other matters related to the
22 exercise of the rights, powers, privileges, and functions conferred
23 on the authority by this chapter for the provision of water and
24 wastewater service.

25 Sec. 8601.104. EXPANSION OF SERVICES. (a) In this section,
26 "West Travis County Water and Wastewater Systems" means those water
27 and wastewater systems that were owned and operated before the

1 effective date of the Act enacting this chapter by the West Travis
2 County Public Utility Agency pursuant to agreement with the member
3 entities.

4 (b) Except as provided by Subsection (c), the authority may
5 extend service to new customers located inside or outside the
6 authority's boundaries.

7 (c) The authority may not extend wastewater service to new
8 customers in Hays County that are located inside the
9 extraterritorial jurisdiction or municipal limits of a
10 municipality unless the authority sends the municipality written
11 notice of its intent to provide the service and the municipality
12 does not object in writing to the extension of service on or before
13 the 60th day after the date of receiving notice.

14 (d) Authority policies, rules, and bylaws must include
15 reasonable provisions for funding authority expenses for expansion
16 of the West Travis County Water and Wastewater Systems to serve new
17 development.

18 Sec. 8601.105. ACQUISITION, CONSTRUCTION, MAINTENANCE, AND
19 OPERATION OF SYSTEMS. (a) The authority may purchase, construct,
20 acquire, own, operate, maintain, repair, improve, or extend inside
21 or outside its boundaries any works, improvements, facilities,
22 plants, equipment, or appliances necessary to accomplish authority
23 purposes under this chapter, including all works, improvements,
24 facilities, plants, equipment, and appliances incident, helpful,
25 or necessary to provide services inside or outside the authority's
26 boundaries.

27 (b) Any new construction or extension of authority

1 facilities in the jurisdiction of a municipality must comply with
2 the municipality's:

3 (1) ordinances governing subdivision platting and
4 site development; and

5 (2) design criteria for fire flow.

6 Sec. 8601.106. WATER CONSERVATION OR DROUGHT CONTINGENCY
7 PLANS. The authority by rule may develop, prepare, revise, adopt,
8 implement, enforce, and manage comprehensive water conservation or
9 drought contingency plans for the authority or any portion of the
10 authority.

11 Sec. 8601.107. CONTRACTS AND INSTRUMENTS. The authority
12 may, as necessary or convenient to the exercise of the rights,
13 powers, privileges, and functions conferred on the authority by
14 this chapter:

15 (1) enter into a contract, including an interlocal
16 contract under Chapter 791, Government Code; or

17 (2) execute an instrument.

18 Sec. 8601.108. MEMBER ENTITY CONVEYANCES AND ACQUISITIONS.

19 (a) In this section, "utility system" has the meaning assigned by
20 Section 1502.001, Government Code.

21 (b) A member entity may convey a utility system facility or
22 asset or its interest in a utility system facility or asset to the
23 authority without holding an election to approve the conveyance.

24 (c) A member entity is exempt from the provisions of Chapter
25 1502, Government Code, regarding the conveyance, sale, or
26 acquisition of a utility system, or any related works,
27 improvements, facilities, plants, equipment, or appliances.

1 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

2 Sec. 8601.151. FEES, RATES, AND OTHER CHARGES. The board
3 shall establish, charge, and collect tolls, fees, user fees, rates,
4 and other charges for the sale or use of water, water connections,
5 wastewater service, wastewater connections, or other services
6 sold, furnished, or supplied by the authority. The tolls, fees,
7 user fees, rates, and other charges must be reasonable and
8 nondiscriminatory and sufficient to produce revenue adequate to:

9 (1) pay all expenses necessary to the operation and
10 maintenance of the properties and facilities of the authority;

11 (2) pay the interest on and principal of all bonds,
12 notes, or other obligations assumed, issued, or incurred by the
13 authority;

14 (3) pay the principal of and interest on and any other
15 amounts owed under any legal debt created or assumed by the
16 authority;

17 (4) pay all sinking fund and reserve fund payments
18 agreed to be made with respect to bonds, notes, or other obligations
19 and payable out of those revenues, as the payments become due and
20 payable; and

21 (5) fulfill the terms of any agreements made with the
22 bondholders, other counterparties or creditors, or with any person
23 on their behalf.

24 Sec. 8601.152. IMPACT FEES. The authority may assess
25 impact fees under Chapter 395, Local Government Code.

26 Sec. 8601.153. LATE OR PARTIAL PAYMENTS: INTEREST AND
27 PENALTIES. (a) The board may require the payment of interest on

1 any late or unpaid tolls, fees, user fees, impact fees, rates, or
2 other charges due the authority. The interest rate may not exceed
3 the interest rate permitted by Section 2251.025, Government Code.

4 (b) The board may impose penalties for the failure to make a
5 complete or timely payment to the authority.

6 Sec. 8601.154. ADMINISTRATIVE PENALTY. A person who
7 violates a rule or order of the authority is subject to an
8 administrative penalty of not more than \$5,000, as determined by
9 the board, for each violation or each day of a continuing violation.
10 The person shall pay the penalty to the authority.

11 Sec. 8601.155. DISBURSEMENTS. (a) The authority may
12 disburse authority money by check, draft, order, federal reserve
13 wire system, or other instrument or authorization.

14 (b) Except as provided by Subsection (c), disbursements of
15 the authority must be signed by at least a majority of the
16 directors.

17 (c) The board by resolution may allow the general manager,
18 treasurer, bookkeeper, or other employee or representative of the
19 authority to sign disbursements.

20 Sec. 8601.156. NO AD VALOREM TAXATION OR SPECIAL
21 ASSESSMENTS. The authority may not impose an ad valorem tax or a
22 special assessment.

23 Sec. 8601.157. FISCAL YEAR. The authority's fiscal year
24 begins on October 1 and ends on September 30.

25 Sec. 8601.158. FRANCHISE FEES. The authority may not
26 assess or collect a franchise fee for the use of its real property.
27 The authority may pay a franchise fee to another governmental

1 entity.

2 SUBCHAPTER E. BONDS AND NOTES

3 Sec. 8601.201. REVENUE BONDS AND NOTES. (a) To accomplish
4 the purposes of the authority, the authority may issue bonds or
5 notes payable solely from and secured by all or part of any funds or
6 any revenue from any source or sources, including:

7 (1) tolls, fees, user fees, impact fees, rates, and
8 other charges the authority imposes or collects;

9 (2) the sale of water, water services, water rights or
10 capacity, water transmission rights or services, water pumping,
11 sewer services, or any other service or product of the authority
12 provided inside or outside the boundaries of the authority;

13 (3) grants or gifts;

14 (4) the ownership or operation of all or a designated
15 part of the authority's works, improvements, facilities, plants, or
16 equipment; and

17 (5) contracts between the authority and a member
18 entity, customer, or any other person.

19 (b) Bonds or notes issued by the authority may be first or
20 subordinate lien obligations at the board's discretion.

21 (c) In connection with any bonds or notes of the authority,
22 the authority may exercise any power of an issuer under Chapter
23 1371, Government Code.

24 (d) The authority may conduct a public, private, or
25 negotiated sale of the bonds or notes.

26 (e) The authority may enter into one or more indentures of
27 trust to further secure its bonds or notes.

1 (f) The authority may issue bonds or notes in more than one
2 series as necessary to carry out the purposes of this chapter. In
3 issuing bonds or notes secured by revenue of the authority, the
4 authority may reserve the right to issue additional bonds or notes
5 secured by the authority's revenue that are on parity with or are
6 senior or subordinate to the bonds or notes issued earlier.

7 (g) A resolution of the board or a trust indenture securing
8 the bonds or notes may specify additional provisions that
9 constitute a contract between the authority and its bondholders or
10 noteholders.

11 (h) Bonds and notes may be additionally secured by deed of
12 trust or mortgage on any or all of the authority's facilities.

13 (i) Bonds and notes issued by the authority are not subject
14 to approval by the Texas Commission on Environmental Quality, and
15 commission rules regarding bonds or notes do not apply to bonds or
16 notes issued by the authority.

17 Sec. 8601.202. ELECTION NOT REQUIRED. The authority is not
18 required to hold an election to approve the issuance of revenue
19 bonds or notes or other obligations under this subchapter.

20 Sec. 8601.203. USE OF REVENUE AND GROWTH PROJECTIONS. For
21 the purposes of attorney general review and approval and in lieu of
22 any other manner of demonstrating the ability to pay debt service
23 and satisfy any other pecuniary obligations relating to bonds,
24 notes, or other obligations, the authority may demonstrate its
25 ability to satisfy the debt service and those obligations using
26 accumulated funds of the authority and revenue and growth
27 projections prepared by a professional utility rate consultant at

1 the direction of the authority. If the resolution authorizing the
2 issuance of the bonds, notes, or other obligations provides that
3 the authority intends to increase rates to the extent necessary to
4 pay debt service and satisfy any other pecuniary obligations
5 arising under the bonds, notes, or other obligations, the revenue
6 projections prepared by a professional utility rate consultant may
7 include forecast rate increases and accumulated and available fund
8 balances as determined by the authority.

9 SECTION 5. On the effective date of this Act:

10 (1) the Hill Country Regional Water Authority shall
11 assume all assets, liabilities, and obligations of the West Travis
12 County Public Utility Agency;

13 (2) all contracts and written agreements of the West
14 Travis County Public Utility Agency are assigned to and assumed by
15 the Hill Country Regional Water Authority; and

16 (3) the Utilities Installment Purchase Agreement
17 entered January 17, 2012, between the Lower Colorado River
18 Authority and the West Travis County Public Utility Agency, as
19 amended, is assigned to and assumed by the Hill Country Regional
20 Water Authority created by Section 4 of this Act and is valid and
21 enforceable by its terms. Governmental immunity from liability or
22 suit is waived for the parties to enforce that Utilities
23 Installment Purchase Agreement to the extent provided by Subchapter
24 I, Chapter 271, Local Government Code.

25 SECTION 6. (a) The legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished
3 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4 Government Code.

5 (b) The governor, one of the required recipients, has
6 submitted the notice and Act to the Texas Commission on
7 Environmental Quality.

8 (c) The Texas Commission on Environmental Quality has filed
9 its recommendations relating to this Act with the governor, the
10 lieutenant governor, and the speaker of the house of
11 representatives within the required time.

12 (d) All requirements of the constitution and laws of this
13 state and the rules and procedures of the legislature with respect
14 to the notice, introduction, and passage of this Act are fulfilled
15 and accomplished.

16 SECTION 7. (a) Any eminent domain powers granted by general
17 law that apply to the Hill Country Regional Water Authority, as
18 created by this Act, take effect only if this Act receives a
19 two-thirds vote of all the members elected to each house.

20 (b) If this Act does not receive a two-thirds vote of all the
21 members elected to each house, Subchapter C, Chapter 8601, Special
22 District Local Laws Code, as added by this Act, is amended by adding
23 Section 8601.109 to read as follows:

24 Sec. 8601.109. NO EMINENT DOMAIN POWER. The district may
25 not exercise the power of eminent domain.

26 (c) This section is not intended to be an expression of a
27 legislative interpretation of the requirements of Section 17(c),

1 Article I, Texas Constitution.

2 SECTION 8. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2013.

By: _____ .B. No. _____

Substitute the following for ____B. No. _____:

By: _____ C.S.____B. No. _____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the conversion of the West Travis County Public Utility
3 Agency to the Hill Country Regional Water Authority and to the
4 creation of the Hill Country Regional Water Authority; providing
5 authority to issue revenue bonds or notes; granting the power of
6 eminent domain; providing an administrative penalty; providing
7 authority to impose fees.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. (a) The West Travis County Public Utility Agency
10 is converted to a conservation and reclamation district to be known
11 as the Hill Country Regional Water Authority located in Hays and
12 Travis Counties.

13 (b) The Hill Country Regional Water Authority is not
14 required to hold an election to confirm the creation of the
15 authority.

16 SECTION 2. It is the intent and finding of the legislature
17 that:

18 (1) the residents and customers served by the West
19 Travis County Public Utility Agency before the effective date of
20 this Act will be provided by the creation of the Hill Country
21 Regional Water Authority under this Act with the means to obtain
22 services authorized by Sections 8601.101 and 8601.102, Special
23 District Local Laws Code, as added by this Act, in the most
24 effective and efficient manner without the impairment of any

1 existing contracts or obligations of the West Travis County Public
2 Utility Agency; and

3 (2) the creation of the Hill Country Regional Water
4 Authority under this Act will further important public policy
5 objectives by:

6 (A) supporting public ownership of important
7 water and wastewater utility infrastructure in an environmentally
8 sensitive area; and

9 (B) protecting the interests of current
10 ratepayers.

11 SECTION 3. The heading to Subtitle G, Title 6, Special
12 District Local Laws Code, is amended to read as follows:

13 SUBTITLE G. RIVER AUTHORITIES AND OTHER SPECIAL WATER AUTHORITIES

14 SECTION 4. Subtitle G, Title 6, Special District Local Laws
15 Code, is amended by adding Chapter 8601 to read as follows:

16 CHAPTER 8601. HILL COUNTRY REGIONAL WATER AUTHORITY

17 SUBCHAPTER A. GENERAL PROVISIONS

18 Sec. 8601.001. DEFINITIONS. In this chapter:

19 (1) "Authority" means the Hill Country Regional Water
20 Authority.

21 (2) "Board" means the board of directors of the
22 authority.

23 (3) "Director" means a member of the board.

24 (4) "Member entity" means:

25 (A) Hays County;

26 (B) the City of Bee Cave; or

27 (C) West Travis County Municipal Utility

1 District No. 5.

2 Sec. 8601.002. NATURE OF AUTHORITY. The authority is a
3 conservation and reclamation district in Hays and Travis Counties
4 created under and essential to accomplish the purposes of Section
5 59, Article XVI, Texas Constitution.

6 Sec. 8601.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
7 The authority is created to serve a public use and benefit.

8 (b) All land and other property included in the territory of
9 the authority will benefit from the works and projects to be
10 accomplished by the authority under powers conferred by Section 59,
11 Article XVI, Texas Constitution, and powers granted under this
12 chapter.

13 (c) The authority is created to accomplish the control,
14 storage, conservation, preservation, distribution, and use of
15 water for domestic, industrial, municipal, and all other useful
16 purposes, including the protection, preservation, and restoration
17 of the purity and sanitary condition of water within this state, as
18 provided by Section 59, Article XVI, Texas Constitution.

19 Sec. 8601.004. AUTHORITY BOUNDARIES. The authority's
20 boundaries are coextensive with the boundaries of the territory
21 described by Certificate of Public Convenience and Necessity No.
22 13207, as those boundaries exist on the effective date of the Act
23 enacting this chapter and as they may be amended in accordance with
24 applicable law.

25 Sec. 8601.005. APPLICABILITY OF OTHER LAW. (a) Except as
26 otherwise provided by this chapter, Chapter 49, Water Code, applies
27 to the authority. For the purposes of Chapter 49, Water Code, the

1 authority is a special water authority.

2 (b) The following subchapters of Chapter 49, Water Code, do
3 not apply to the authority:

4 (1) Subchapter J;

5 (2) Subchapter L;

6 (3) Subchapter M; and

7 (4) Subchapter N.

8 SUBCHAPTER B. BOARD OF DIRECTORS

9 Sec. 8601.051. DIRECTORS; TERMS. (a) The authority is
10 governed by a board of five appointed directors.

11 (b) Except for a director serving on the initial board,
12 directors serve staggered four-year terms that expire September 30
13 of even-numbered years.

14 (c) A director may serve consecutive terms of office.

15 Sec. 8601.0515. INITIAL BOARD. (a) The initial board
16 consists of:

17 Position 1--Larry Fox;

18 Position 2--Ray Whisenant;

19 Position 3--Michael Murphy;

20 Position 4--Scott Roberts; and

21 Position 5--Bill Goodwin.

22 (b) Directors Fox, Whisenant, and Murphy serve initial
23 terms expiring September 30, 2016. Directors Roberts and Goodwin
24 serve initial terms expiring September 30, 2014.

25 (c) A vacancy in a position on the initial board shall be
26 filled in the manner provided by Section 8601.053 for making an
27 appointment to the same position, except that an appointment to

1 fill a vacancy in position 4 or 5 does not require that both
2 positions be seated simultaneously.

3 (d) This section expires September 30, 2016.

4 Sec. 8601.052. ELIGIBILITY TO SERVE AS A DIRECTOR. (a) To
5 be eligible to serve as a director, an individual must be at least
6 18 years of age.

7 (b) To be eligible to serve as a director:

8 (1) in position 1, 2, or 3, an individual must reside
9 in Hays or Travis County;

10 (2) in position 4, an individual must reside in Hays
11 County; or

12 (3) in position 5, an individual must reside in Travis
13 County.

14 Sec. 8601.053. METHOD OF APPOINTING DIRECTORS. (a)
15 Directors are appointed or recommended for appointment to the five
16 numbered positions on the board by the governing body of each member
17 entity as follows:

18 (1) West Travis County Municipal Utility District No.
19 5 shall appoint the director who serves in position 1;

20 (2) Hays County shall appoint the director who serves
21 in position 2;

22 (3) the City of Bee Cave shall appoint the director who
23 serves in position 3;

24 (4) Hays County shall appoint the director who serves
25 in position 4, subject to approval by the member entities as
26 provided by Subsection (b); and

27 (5) the City of Bee Cave shall appoint the director who

1 serves in position 5, subject to approval by the member entities as
2 provided by Subsection (b).

3 (b) The governing bodies of all member entities must approve
4 the appointments of directors for positions 4 and 5 before the
5 persons begin to serve as directors. Upon approval, directors
6 appointed to serve in those positions shall be seated
7 simultaneously.

8 (c) Except to fill a vacancy, the appointment of a director
9 must be made during September of the year in which that position's
10 term begins.

11 Sec. 8601.054. VACANCY. (a) A vacancy in a position on the
12 board shall be filled in the same manner as an appointment to the
13 board for that position, except that a vacancy in position 4 or 5
14 does not require that positions 4 and 5 be seated simultaneously.

15 (b) A person appointed to fill a vacancy serves for the
16 remainder of the vacated term.

17 (c) Section 49.105, Water Code, does not apply to the
18 authority.

19 Sec. 8601.055. SERVICE ON BOARD BY EMPLOYEE OR OFFICER OF
20 OTHER PUBLIC ENTITY. (a) The common law doctrine of
21 incompatibility does not disqualify an employee or official of a
22 public entity from serving as a director.

23 (b) An employee, officer, or member of the governing body of
24 a public entity may serve as a director but may not have a personal
25 interest in a contract executed by the authority other than as an
26 employee, officer, or member of the governing body of the public
27 entity. If a director has a personal interest in a contract

1 executed by the authority, the director must abstain from any
2 participation in the matter. A director is not required to abstain
3 from further participation in the matter if a majority of the
4 members of the board of directors have similar interests in the same
5 official action.

6 Sec. 8601.056. COMPENSATION; EXPENSES. (a) A director
7 serves without compensation but, subject to board approval, may be
8 reimbursed for travel or other expenses incurred on behalf of the
9 authority if the director presents the board with a verified
10 statement of the expenses.

11 (b) Section 49.060, Water Code, does not apply to the
12 authority.

13 Sec. 8601.057. QUORUM. A majority of the membership of the
14 board constitutes a quorum for any meeting, and a concurrence of a
15 majority of the entire membership of the board is sufficient for
16 transacting any business of the authority.

17 Sec. 8601.058. OFFICERS. (a) Every two years on the
18 appointment or reappointment of directors, the board shall meet and
19 elect a president, a vice president, a secretary, and any other
20 officers or assistant officers the board considers necessary.

21 (b) The president is the chief executive officer of the
22 authority, presides at all meetings of the board, and shall execute
23 all documents on behalf of the authority unless the board
24 authorizes the general manager or other representative of the
25 authority to execute a document or documents on behalf of the
26 authority.

27 (c) The vice president shall act as president in case of the

1 absence or disability of the president.

2 (d) The secretary is responsible for seeing that all records
3 and books of the authority are properly kept and may attest the
4 president's signature on documents.

5 (e) The board may appoint another director, the general
6 manager, or any employee as assistant or deputy secretary to assist
7 the secretary, and any such person shall be entitled to certify as
8 to the authenticity of any record of the authority, including all
9 proceedings relating to bonds, contracts, or indebtedness of the
10 authority.

11 Sec. 8601.059. REMOVAL FROM OFFICE. A director may be
12 removed from office at any time, with or without cause, by the
13 member entity that appointed the director.

14 Sec. 8601.060. EX OFFICIO BOARD MEMBERS. (a) This section
15 applies only to a person who is not an appointed director.

16 (b) Any of the following persons, or any of those persons'
17 designees, is entitled to serve as an ex officio, nonvoting member
18 of the board:

19 (1) the Hays County judge;

20 (2) the City of Bee Cave city administrator; or

21 (3) the president of the West Travis County Municipal
22 Utility District No. 5 Board of Directors.

23 (c) A person designated as an ex officio member of the board
24 is entitled to receive notice of and to attend the authority's board
25 meetings.

26 (d) A person designated as an ex officio member of the board
27 is not counted for purposes of determining a quorum under Section

1 8601.057.

2 SUBCHAPTER C. POWERS AND DUTIES

3 Sec. 8601.101. GENERAL POWERS AND DUTIES. (a) The
4 authority has all the rights, powers, privileges, functions, and
5 duties necessary and convenient to accomplish the purposes of this
6 chapter.

7 (b) Except as provided by this chapter, the authority has
8 the powers and duties provided by the general law of this state
9 applicable to a special water authority under Chapter 49, Water
10 Code.

11 (c) The authority retains all the rights, powers,
12 privileges, functions, obligations, and duties of the West Travis
13 County Public Utility Agency as in effect before the effective date
14 of the Act enacting this chapter.

15 Sec. 8601.102. WATER AND WASTE POWERS. (a) The authority
16 may supply water for municipal uses, domestic uses, power, and
17 commercial purposes, and all other beneficial uses or controls.

18 (b) The authority may not use groundwater from the Barton
19 Springs Segment of the Edwards Aquifer as a source of the
20 authority's water supply. This section shall not be interpreted to
21 prohibit an aquifer storage and recovery project or a recharge
22 improvement project that enhances water supply in the Barton
23 Springs Segment of the Edwards Aquifer.

24 (c) The authority may collect, transport, process, dispose
25 of, and control all domestic, industrial, or communal wastes
26 whether in fluid, solid, or composite state.

27 Sec. 8601.103. AUTHORITY POLICIES, RULES, AND BYLAWS. The

1 authority may adopt and enforce policies, rules, and bylaws
2 reasonably required to implement this chapter, including rules
3 governing procedures before the board and rules regarding
4 implementation, enforcement, and any other matters related to the
5 exercise of the rights, powers, privileges, and functions conferred
6 on the authority by this chapter for the provision of water and
7 wastewater service.

8 Sec. 8601.104. EXTENSION OF SERVICES. (a) In this section,
9 "commission" means the Texas Commission on Environmental Quality.

10 (b) Except as provided by this section, the authority may
11 extend service to new customers located inside or outside the
12 authority's boundaries.

13 (c) The authority may not extend wastewater service to new
14 customers in Hays County that are located inside the
15 extraterritorial jurisdiction or municipal limits of a
16 municipality or to new customers located inside the
17 extraterritorial jurisdiction or municipal limits of the City of
18 Austin unless the authority sends the applicable municipality
19 written notice of its intent to provide the service and the
20 municipality does not object in writing to the extension of service
21 on or before the 60th day after the date of receiving notice.

22 (d) In accordance with the provisions of Section
23 8601.003(c) related to the protection, preservation, and
24 restoration of the purity and sanitary condition of water in this
25 state, except as provided by this subsection, the authority may not
26 extend service to new customers in an area served by the authority
27 that is located in the contributing and recharge zone of the Barton

1 Springs Segment of the Edwards Aquifer. Before the authority
2 approves an extension of authority service under this subsection,
3 the applicant requesting the service must certify to the authority
4 that:

5 (1) the applicant has submitted any required
6 applications, notifications, or plans to the commission; and

7 (2) a draft permit has been issued by the executive
8 director of the commission or by any other governmental entity with
9 the requisite jurisdiction for the purpose of managing stormwater
10 and all domestic, industrial, or communal wastes in a manner
11 sufficient to maintain and support the Texas Surface Water Quality
12 Standards, 30 T.A.C. Chapter 307, including the anti-degradation
13 policy adopted under those standards.

14 (e) The authority shall hold a public hearing and provide an
15 opportunity for public comment before extending authority service
16 to new customers not located in the service area identified in the
17 10-year capital improvement plan that:

18 (1) has been adopted from time to time in compliance
19 with Chapter 395, Local Government Code; and

20 (2) is in effect when an application for service is
21 received.

22 Sec. 8601.105. ACQUISITION, CONSTRUCTION, MAINTENANCE, AND
23 OPERATION OF SYSTEMS. (a) The authority may purchase, construct,
24 acquire, own, operate, maintain, repair, improve, or extend inside
25 or outside its boundaries any works, improvements, facilities,
26 plants, equipment, or appliances necessary to accomplish authority
27 purposes under this chapter, including all works, improvements,

1 facilities, plants, equipment, and appliances incident, helpful,
2 or necessary to provide services inside or outside the authority's
3 boundaries.

4 (b) Any new construction or extension of authority
5 facilities in the jurisdiction of a municipality must comply with
6 the municipality's:

7 (1) ordinances governing subdivision platting and
8 site development; and

9 (2) design criteria for fire flow.

10 Sec. 8601.106. WATER CONSERVATION OR DROUGHT CONTINGENCY
11 PLANS. The authority by rule may develop, prepare, revise, adopt,
12 implement, enforce, and manage comprehensive water conservation or
13 drought contingency plans for the authority or any portion of the
14 authority.

15 Sec. 8601.107. CONTRACTS AND INSTRUMENTS. The authority
16 may, as necessary or convenient to the exercise of the rights,
17 powers, privileges, and functions conferred on the authority by
18 this chapter:

19 (1) enter into a contract, including an interlocal
20 contract under Chapter 791, Government Code; or

21 (2) execute an instrument.

22 Sec. 8601.108. MEMBER ENTITY CONVEYANCES AND ACQUISITIONS.

23 (a) In this section, "utility system" has the meaning assigned by
24 Section 1502.001, Government Code.

25 (b) A member entity may convey a utility system facility or
26 asset or its interest in a utility system facility or asset to the
27 authority without holding an election to approve the conveyance.

1 (c) A member entity is exempt from the provisions of Chapter
2 1502, Government Code, regarding the conveyance, sale, or
3 acquisition of a utility system, or any related works,
4 improvements, facilities, plants, equipment, or appliances.

5 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

6 Sec. 8601.151. FEES, RATES, AND OTHER CHARGES. The board
7 shall establish, charge, and collect tolls, fees, user fees, rates,
8 and other charges for the sale or use of water, water connections,
9 wastewater service, wastewater connections, or other services
10 sold, furnished, or supplied by the authority inside and outside
11 the authority's boundaries. The tolls, fees, user fees, rates, and
12 other charges must be reasonable and nondiscriminatory and
13 sufficient to produce revenue adequate to:

14 (1) pay all expenses necessary to the operation and
15 maintenance of the properties and facilities of the authority;

16 (2) pay the interest on and principal of all bonds,
17 notes, or other obligations assumed, issued, or incurred by the
18 authority;

19 (3) pay the principal of and interest on and any other
20 amounts owed under any legal debt created or assumed by the
21 authority;

22 (4) pay all sinking fund and reserve fund payments
23 agreed to be made with respect to bonds, notes, or other obligations
24 and payable out of those revenues, as the payments become due and
25 payable; and

26 (5) fulfill the terms of any agreements made with the
27 bondholders, other counterparties or creditors, or with any person

1 on their behalf.

2 Sec. 8601.152. IMPACT FEES. The authority may assess and
3 collect impact fees under Chapter 395, Local Government Code,
4 inside and outside the authority's boundaries.

5 Sec. 8601.153. LATE OR PARTIAL PAYMENTS: INTEREST AND
6 PENALTIES. (a) The board may require the payment of interest on
7 any late or unpaid tolls, fees, user fees, impact fees, rates, or
8 other charges due the authority. The interest rate may not exceed
9 the interest rate permitted by Section 2251.025, Government Code.

10 (b) The board may impose penalties for the failure to make a
11 complete or timely payment to the authority.

12 Sec. 8601.154. ADMINISTRATIVE PENALTY. A person who
13 violates a rule or order of the authority is subject to an
14 administrative penalty of not more than \$5,000, as determined by
15 the board, for each violation or each day of a continuing violation.
16 The person shall pay the penalty to the authority.

17 Sec. 8601.155. DISBURSEMENTS. (a) The authority may
18 disburse authority money by check, draft, order, federal reserve
19 wire system, or other instrument or authorization.

20 (b) Except as provided by Subsection (c), disbursements of
21 the authority must be signed by at least a majority of the
22 directors.

23 (c) The board by resolution may allow the general manager,
24 treasurer, bookkeeper, or other employee or representative of the
25 authority to sign disbursements.

26 Sec. 8601.156. NO AD VALOREM TAXATION OR SPECIAL
27 ASSESSMENTS. The authority may not impose an ad valorem tax or a

1 special assessment.

2 Sec. 8601.157. FISCAL YEAR. The authority's fiscal year
3 begins on October 1 and ends on September 30.

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5 assess or collect a franchise fee for the use of its real property.
6 The authority may pay a franchise fee to another governmental
7 entity.

8 SUBCHAPTER E. BONDS AND NOTES

9 Sec. 8601.201. REVENUE BONDS AND NOTES. (a) To accomplish
10 the purposes of the authority, the authority may issue bonds or
11 notes payable solely from and secured by all or part of any funds or
12 any revenue from any source or sources, including:

13 (1) tolls, fees, user fees, impact fees, rates, and
14 other charges the authority imposes or collects;

15 (2) the sale of water, water services, water rights or
16 capacity, water transmission rights or services, water pumping,
17 sewer services, or any other service or product of the authority
18 provided inside or outside the boundaries of the authority;

19 (3) grants or gifts;

20 (4) the ownership or operation of all or a designated
21 part of the authority's works, improvements, facilities, plants, or
22 equipment; and

23 (5) contracts between the authority and a member
24 entity, customer, or any other person.

25 (b) Bonds or notes issued by the authority may be first or
26 subordinate lien obligations at the board's discretion.

27 (c) In connection with any bonds or notes of the authority,

1 the authority may exercise any power of an issuer under Chapter
2 1371, Government Code.

3 (d) The authority may conduct a public, private, or
4 negotiated sale of the bonds or notes.

5 (e) The authority may enter into one or more indentures of
6 trust to further secure its bonds or notes.

7 (f) The authority may issue bonds or notes in more than one
8 series as necessary to carry out the purposes of this chapter. In
9 issuing bonds or notes secured by revenue of the authority, the
10 authority may reserve the right to issue additional bonds or notes
11 secured by the authority's revenue that are on parity with or are
12 senior or subordinate to the bonds or notes issued earlier.

13 (g) A resolution of the board or a trust indenture securing
14 the bonds or notes may specify additional provisions that
15 constitute a contract between the authority and its bondholders or
16 noteholders.

17 (h) Bonds and notes may be additionally secured by deed of
18 trust or mortgage on any or all of the authority's facilities.

19 (i) Bonds and notes issued by the authority are not subject
20 to approval by the Texas Commission on Environmental Quality, and
21 commission rules regarding bonds or notes do not apply to bonds or
22 notes issued by the authority.

23 Sec. 8601.202. ELECTION NOT REQUIRED. The authority is not
24 required to hold an election to approve the issuance of revenue
25 bonds or notes or other obligations under this subchapter.

26 Sec. 8601.203. USE OF REVENUE AND GROWTH PROJECTIONS. For
27 the purposes of attorney general review and approval and in lieu of

1 any other manner of demonstrating the ability to pay debt service
2 and satisfy any other pecuniary obligations relating to bonds,
3 notes, or other obligations, the authority may demonstrate its
4 ability to satisfy the debt service and those obligations using
5 accumulated funds of the authority and revenue and growth
6 projections prepared by a professional utility rate consultant at
7 the direction of the authority. If the resolution authorizing the
8 issuance of the bonds, notes, or other obligations provides that
9 the authority intends to increase rates to the extent necessary to
10 pay debt service and satisfy any other pecuniary obligations
11 arising under the bonds, notes, or other obligations, the revenue
12 projections prepared by a professional utility rate consultant may
13 include forecast rate increases and accumulated and available fund
14 balances as determined by the authority.

15 SECTION 5. On the effective date of this Act:

16 (1) the Hill Country Regional Water Authority shall
17 assume all assets, liabilities, and obligations of the West Travis
18 County Public Utility Agency;

19 (2) all contracts and written agreements of the West
20 Travis County Public Utility Agency are assigned to and assumed by
21 the Hill Country Regional Water Authority; and

22 (3) the Utilities Installment Purchase Agreement
23 entered January 17, 2012, between the Lower Colorado River
24 Authority and the West Travis County Public Utility Agency, as
25 amended, is assigned to and assumed by the Hill Country Regional
26 Water Authority created by Section 4 of this Act and is valid and
27 enforceable by its terms. Governmental immunity from liability or

1 suit is waived for the parties to enforce that Utilities
2 Installment Purchase Agreement to the extent provided by Subchapter
3 I, Chapter 271, Local Government Code.

4 SECTION 6. (a) The legal notice of the intention to
5 introduce this Act, setting forth the general substance of this
6 Act, has been published as provided by law, and the notice and a
7 copy of this Act have been furnished to all persons, agencies,
8 officials, or entities to which they are required to be furnished
9 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
10 Government Code.

11 (b) The governor, one of the required recipients, has
12 submitted the notice and Act to the Texas Commission on
13 Environmental Quality.

14 (c) The Texas Commission on Environmental Quality has filed
15 its recommendations relating to this Act with the governor, the
16 lieutenant governor, and the speaker of the house of
17 representatives within the required time.

18 (d) All requirements of the constitution and laws of this
19 state and the rules and procedures of the legislature with respect
20 to the notice, introduction, and passage of this Act are fulfilled
21 and accomplished.

22 SECTION 7. (a) Any eminent domain powers granted by general
23 law that apply to the Hill Country Regional Water Authority, as
24 created by this Act, take effect only if this Act receives a
25 two-thirds vote of all the members elected to each house.

26 (b) If this Act does not receive a two-thirds vote of all the
27 members elected to each house, Subchapter C, Chapter 8601, Special

1 District Local Laws Code, as added by this Act, is amended by adding
2 Section 8601.109 to read as follows:

3 Sec. 8601.109. NO EMINENT DOMAIN POWER. The district may
4 not exercise the power of eminent domain.

5 (c) This section is not intended to be an expression of a
6 legislative interpretation of the requirements of Section 17(c),
7 Article I, Texas Constitution.

8 SECTION 8. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2013.

SENATE BILL 508
Committee Substitute Changes

Section 2

- Adds language for legislative intent regarding the purpose of the HCRWA, including:
 - Public ownership of water and wastewater facilities in an environmentally sensitive area
 - Protection of the interests of ratepayers
- Changes made in response to comments from interested parties

Section 8601.101(d)

- Adds language providing that no service will be extended to new customers in the recharge and contributing zones of the Barton Springs Segment of the Edwards Aquifer unless the applicant for water or wastewater service certifies it has complied with and received preliminary approval from the TCEQ or other entities with jurisdiction regarding water quality protection requirements
- This language was developed with and agreed to by interested parties

Section 8601.104(b)

- Adds language to state that the HCRWA may not extend wastewater service into the city limits or the ETJ of the City of Austin without written notification to the City
- Added in response to comments from interested parties

Section 8601.104(c)

- Adds language to require the HCRWA to hold a public hearing and accept public comment prior to extending service to any customer not located within the service area identified on the HCRWA's capital improvements plan
- Added in response to comments from interested parties

Section 8601.104(d)

- Deletes provision stating that HCRWA policies must provide for the funding of expansion
- Deleted in response to comments from interested parties

Section 8601.151

- Adds language to clarify that fees and charges related to the provision of water and wastewater services may be imposed both inside and outside the HCRWA's boundaries
- This language is common for most water and wastewater districts and the edit only provides clarification

Section 8601.152

- Adds language to clarify that impact fees related to capital improvements for the HCRWA may be collected as well as assessed
- Adds language to clarify that impact fees may be imposed both inside and outside the HCRWA
- This language is common for most water and wastewater districts and the edits only provide clarification

By: Workman

H.B. No. 890

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the conversion of the West Travis County Public Utility
3 Agency to the Hill Country Regional Water Authority and to the
4 creation of the Hill Country Regional Water Authority; providing
5 authority to issue revenue bonds or notes; granting the power of
6 eminent domain; providing an administrative penalty; providing
7 authority to impose fees.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. (a) The West Travis County Public Utility Agency
10 is converted to a conservation and reclamation district to be known
11 as the Hill Country Regional Water Authority located in Hays and
12 Travis Counties.

13 (b) The Hill Country Regional Water Authority is not
14 required to hold an election to confirm the creation of the
15 authority.

16 SECTION 2. It is the intent and finding of the legislature
17 that the residents and customers served by the West Travis County
18 Public Utility Agency before the effective date of this Act will be
19 provided by the creation of the Hill Country Regional Water
20 Authority under this Act with the means to obtain services
21 authorized by Sections 8601.101 and 8601.102, Special District
22 Local Laws Code, as added by this Act, in the most effective and
23 efficient manner without the impairment of any existing contracts
24 or obligations of the West Travis County Public Utility Agency.

1 SECTION 3. The heading to Subtitle G, Title 6, Special
2 District Local Laws Code, is amended to read as follows:

3 SUBTITLE G. RIVER AUTHORITIES AND OTHER SPECIAL WATER AUTHORITIES

4 SECTION 4. Subtitle G, Title 6, Special District Local Laws
5 Code, is amended by adding Chapter 8601 to read as follows:

6 CHAPTER 8601. HILL COUNTRY REGIONAL WATER AUTHORITY

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 8601.001. DEFINITIONS. In this chapter:

9 (1) "Authority" means the Hill Country Regional Water
10 Authority.

11 (2) "Board" means the board of directors of the
12 authority.

13 (3) "Director" means a member of the board.

14 (4) "Member entity" means:

15 (A) Hays County;

16 (B) the City of Bee Cave; or

17 (C) West Travis County Municipal Utility
18 District No. 5.

19 Sec. 8601.002. NATURE OF AUTHORITY. The authority is a
20 conservation and reclamation district in Hays and Travis Counties
21 created under and essential to accomplish the purposes of Section
22 59, Article XVI, Texas Constitution.

23 Sec. 8601.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
24 The authority is created to serve a public use and benefit.

25 (b) All land and other property included in the territory of
26 the authority will benefit from the works and projects to be
27 accomplished by the authority under powers conferred by Section 59,

1 Article XVI, Texas Constitution, and powers granted under this
2 chapter.

3 (c) The authority is created to accomplish the control,
4 storage, conservation, preservation, distribution, and use of
5 water for domestic, industrial, municipal, and all other useful
6 purposes, including the protection, preservation, and restoration
7 of the purity and sanitary condition of water within this state, as
8 provided by Section 59, Article XVI, Texas Constitution.

9 Sec. 8601.004. AUTHORITY BOUNDARIES. The authority's
10 boundaries are coextensive with the boundaries of the territory
11 described by Certificate of Public Convenience and Necessity No.
12 13207, as those boundaries exist on the effective date of the Act
13 enacting this chapter and as they may be amended in accordance with
14 applicable law.

15 Sec. 8601.005. APPLICABILITY OF OTHER LAW. (a) Except as
16 otherwise provided by this chapter, Chapter 49, Water Code, applies
17 to the authority. For the purposes of Chapter 49, Water Code, the
18 authority is a special water authority.

19 (b) The following subchapters of Chapter 49, Water Code, do
20 not apply to the authority:

- 21 (1) Subchapter J;
22 (2) Subchapter L;
23 (3) Subchapter M; and
24 (4) Subchapter N.

25 SUBCHAPTER B. BOARD OF DIRECTORS

26 Sec. 8601.051. DIRECTORS; TERMS. (a) The authority is
27 governed by a board of five appointed directors.

1 (b) Except for a director serving on the initial board,
2 directors serve staggered four-year terms that expire September 30
3 of even-numbered years.

4 (c) A director may serve consecutive terms of office.

5 Sec. 8601.0515. INITIAL BOARD. (a) The initial board
6 consists of:

7 Position 1--Larry Fox;

8 Position 2--Ray Whisenant;

9 Position 3--Michael Murphy;

10 Position 4--Scott Roberts; and

11 Position 5--Bill Goodwin.

12 (b) Directors Fox, Whisenant, and Murphy serve initial
13 terms expiring September 30, 2016. Directors Roberts and Goodwin
14 serve initial terms expiring September 30, 2014.

15 (c) A vacancy in a position on the initial board shall be
16 filled in the manner provided by Section 8601.053 for making an
17 appointment to the same position, except that an appointment to
18 fill a vacancy in position 4 or 5 does not require that both
19 positions be seated simultaneously.

20 (d) This section expires September 30, 2016.

21 Sec. 8601.052. ELIGIBILITY TO SERVE AS A DIRECTOR. (a) To
22 be eligible to serve as a director, an individual must be at least
23 18 years of age.

24 (b) To be eligible to serve as a director:

25 (1) in position 1, 2, or 3, an individual must reside
26 in Hays or Travis County;

27 (2) in position 4, an individual must reside in Hays

1 County; or

2 (3) in position 5, an individual must reside in Travis
3 County.

4 Sec. 8601.053. METHOD OF APPOINTING DIRECTORS. (a)
5 Directors are appointed or recommended for appointment to the five
6 numbered positions on the board by the governing body of each member
7 entity as follows:

8 (1) West Travis County Municipal Utility District No.
9 5 shall appoint the director who serves in position 1;

10 (2) Hays County shall appoint the director who serves
11 in position 2;

12 (3) the City of Bee Cave shall appoint the director who
13 serves in position 3;

14 (4) Hays County shall appoint the director who serves
15 in position 4, subject to approval by the member entities as
16 provided by Subsection (b); and

17 (5) the City of Bee Cave shall appoint the director who
18 serves in position 5, subject to approval by the member entities as
19 provided by Subsection (b).

20 (b) The governing bodies of all member entities must approve
21 the appointments of directors for positions 4 and 5 before the
22 persons begin to serve as directors. Upon approval, directors
23 appointed to serve in those positions shall be seated
24 simultaneously.

25 (c) Except to fill a vacancy, the appointment of a director
26 must be made during September of the year in which that position's
27 term begins.

1 Sec. 8601.054. VACANCY. (a) A vacancy in a position on the
2 board shall be filled in the same manner as an appointment to the
3 board for that position, except that a vacancy in position 4 or 5
4 does not require that positions 4 and 5 be seated simultaneously.

5 (b) A person appointed to fill a vacancy serves for the
6 remainder of the vacated term.

7 (c) Section 49.105, Water Code, does not apply to the
8 authority.

9 Sec. 8601.055. SERVICE ON BOARD BY EMPLOYEE OR OFFICER OF
10 OTHER PUBLIC ENTITY. (a) The common law doctrine of
11 incompatibility does not disqualify an employee or official of a
12 public entity from serving as a director.

13 (b) An employee, officer, or member of the governing body of
14 a public entity may serve as a director but may not have a personal
15 interest in a contract executed by the authority other than as an
16 employee, officer, or member of the governing body of the public
17 entity. If a director has a personal interest in a contract
18 executed by the authority, the director must abstain from any
19 participation in the matter. A director is not required to abstain
20 from further participation in the matter if a majority of the
21 members of the board of directors have similar interests in the same
22 official action.

23 Sec. 8601.056. COMPENSATION; EXPENSES. (a) A director
24 serves without compensation but, subject to board approval, may be
25 reimbursed for travel or other expenses incurred on behalf of the
26 authority if the director presents the board with a verified
27 statement of the expenses.

1 (b) Section 49.060, Water Code, does not apply to the
2 authority.

3 Sec. 8601.057. QUORUM. A majority of the membership of the
4 board constitutes a quorum for any meeting, and a concurrence of a
5 majority of the entire membership of the board is sufficient for
6 transacting any business of the authority.

7 Sec. 8601.058. OFFICERS. (a) Every two years on the
8 appointment or reappointment of directors, the board shall meet and
9 elect a president, a vice president, a secretary, and any other
10 officers or assistant officers the board considers necessary.

11 (b) The president is the chief executive officer of the
12 authority, presides at all meetings of the board, and shall execute
13 all documents on behalf of the authority unless the board
14 authorizes the general manager or other representative of the
15 authority to execute a document or documents on behalf of the
16 authority.

17 (c) The vice president shall act as president in case of the
18 absence or disability of the president.

19 (d) The secretary is responsible for seeing that all records
20 and books of the authority are properly kept and may attest the
21 president's signature on documents.

22 (e) The board may appoint another director, the general
23 manager, or any employee as assistant or deputy secretary to assist
24 the secretary, and any such person shall be entitled to certify as
25 to the authenticity of any record of the authority, including all
26 proceedings relating to bonds, contracts, or indebtedness of the
27 authority.

1 Sec. 8601.059. REMOVAL FROM OFFICE. A director may be
2 removed from office at any time, with or without cause, by the
3 member entity that appointed the director.

4 Sec. 8601.060. EX OFFICIO BOARD MEMBERS. (a) This section
5 applies only to a person who is not an appointed director.

6 (b) Any of the following persons, or any of those persons'
7 designees, is entitled to serve as an ex officio, nonvoting member
8 of the board:

9 (1) the Hays County judge;

10 (2) the City of Bee Cave city administrator; or

11 (3) the president of the West Travis County Municipal
12 Utility District No. 5 Board of Directors.

13 (c) A person designated as an ex officio member of the board
14 is entitled to receive notice of and to attend the authority's board
15 meetings.

16 (d) A person designated as an ex officio member of the board
17 is not counted for purposes of determining a quorum under Section
18 8601.057.

19 SUBCHAPTER C. POWERS AND DUTIES

20 Sec. 8601.101. GENERAL POWERS AND DUTIES. (a) The
21 authority has all the rights, powers, privileges, functions, and
22 duties necessary and convenient to accomplish the purposes of this
23 chapter.

24 (b) Except as provided by this chapter, the authority has
25 the powers and duties provided by the general law of this state
26 applicable to a special water authority under Chapter 49, Water
27 Code.

1 (c) The authority retains all the rights, powers,
2 privileges, functions, obligations, and duties of the West Travis
3 County Public Utility Agency as in effect before the effective date
4 of the Act enacting this chapter.

5 Sec. 8601.102. WATER AND WASTE POWERS. (a) The authority
6 may supply water for municipal uses, domestic uses, power, and
7 commercial purposes, and all other beneficial uses or controls.

8 (b) The authority may not use groundwater from the Barton
9 Springs Segment of the Edwards Aquifer as a source of the
10 authority's water supply. This section shall not be interpreted to
11 prohibit an aquifer storage and recovery project or a recharge
12 improvement project that enhances water supply in the Barton
13 Springs Segment of the Edwards Aquifer.

14 (c) The authority may collect, transport, process, dispose
15 of, and control all domestic, industrial, or communal wastes
16 whether in fluid, solid, or composite state.

17 Sec. 8601.103. AUTHORITY POLICIES, RULES, AND BYLAWS. The
18 authority may adopt and enforce policies, rules, and bylaws
19 reasonably required to implement this chapter, including rules
20 governing procedures before the board and rules regarding
21 implementation, enforcement, and any other matters related to the
22 exercise of the rights, powers, privileges, and functions conferred
23 on the authority by this chapter for the provision of water and
24 wastewater service.

25 Sec. 8601.104. EXPANSION OF SERVICES. (a) In this section,
26 "West Travis County Water and Wastewater Systems" means those water
27 and wastewater systems that were owned and operated before the

1 effective date of the Act enacting this chapter by the West Travis
2 County Public Utility Agency pursuant to agreement with the member
3 entities.

4 (b) Except as provided by Subsection (c), the authority may
5 extend service to new customers located inside or outside the
6 authority's boundaries.

7 (c) The authority may not extend wastewater service to new
8 customers in Hays County that are located inside the
9 extraterritorial jurisdiction or municipal limits of a
10 municipality unless the authority sends the municipality written
11 notice of its intent to provide the service and the municipality
12 does not object in writing to the extension of service on or before
13 the 60th day after the date of receiving notice.

14 (d) Authority policies, rules, and bylaws must include
15 reasonable provisions for funding authority expenses for expansion
16 of the West Travis County Water and Wastewater Systems to serve new
17 development.

18 Sec. 8601.105. ACQUISITION, CONSTRUCTION, MAINTENANCE, AND
19 OPERATION OF SYSTEMS. (a) The authority may purchase, construct,
20 acquire, own, operate, maintain, repair, improve, or extend inside
21 or outside its boundaries any works, improvements, facilities,
22 plants, equipment, or appliances necessary to accomplish authority
23 purposes under this chapter, including all works, improvements,
24 facilities, plants, equipment, and appliances incident, helpful,
25 or necessary to provide services inside or outside the authority's
26 boundaries.

27 (b) Any new construction or extension of authority

1 facilities in the jurisdiction of a municipality must comply with
2 the municipality's:

3 (1) ordinances governing subdivision platting and
4 site development; and

5 (2) design criteria for fire flow.

6 Sec. 8601.106. WATER CONSERVATION OR DROUGHT CONTINGENCY
7 PLANS. The authority by rule may develop, prepare, revise, adopt,
8 implement, enforce, and manage comprehensive water conservation or
9 drought contingency plans for the authority or any portion of the
10 authority.

11 Sec. 8601.107. CONTRACTS AND INSTRUMENTS. The authority
12 may, as necessary or convenient to the exercise of the rights,
13 powers, privileges, and functions conferred on the authority by
14 this chapter:

15 (1) enter into a contract, including an interlocal
16 contract under Chapter 791, Government Code; or

17 (2) execute an instrument.

18 Sec. 8601.108. MEMBER ENTITY CONVEYANCES AND ACQUISITIONS.

19 (a) In this section, "utility system" has the meaning assigned by
20 Section 1502.001, Government Code.

21 (b) A member entity may convey a utility system facility or
22 asset or its interest in a utility system facility or asset to the
23 authority without holding an election to approve the conveyance.

24 (c) A member entity is exempt from the provisions of Chapter
25 1502, Government Code, regarding the conveyance, sale, or
26 acquisition of a utility system, or any related works,
27 improvements, facilities, plants, equipment, or appliances.

1 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

2 Sec. 8601.151. FEES, RATES, AND OTHER CHARGES. The board
3 shall establish, charge, and collect tolls, fees, user fees, rates,
4 and other charges for the sale or use of water, water connections,
5 wastewater service, wastewater connections, or other services
6 sold, furnished, or supplied by the authority. The tolls, fees,
7 user fees, rates, and other charges must be reasonable and
8 nondiscriminatory and sufficient to produce revenue adequate to:

9 (1) pay all expenses necessary to the operation and
10 maintenance of the properties and facilities of the authority;

11 (2) pay the interest on and principal of all bonds,
12 notes, or other obligations assumed, issued, or incurred by the
13 authority;

14 (3) pay the principal of and interest on and any other
15 amounts owed under any legal debt created or assumed by the
16 authority;

17 (4) pay all sinking fund and reserve fund payments
18 agreed to be made with respect to bonds, notes, or other obligations
19 and payable out of those revenues, as the payments become due and
20 payable; and

21 (5) fulfill the terms of any agreements made with the
22 bondholders, other counterparties or creditors, or with any person
23 on their behalf.

24 Sec. 8601.152. IMPACT FEES. The authority may assess
25 impact fees under Chapter 395, Local Government Code.

26 Sec. 8601.153. LATE OR PARTIAL PAYMENTS: INTEREST AND
27 PENALTIES. (a) The board may require the payment of interest on

1 any late or unpaid tolls, fees, user fees, impact fees, rates, or
2 other charges due the authority. The interest rate may not exceed
3 the interest rate permitted by Section 2251.025, Government Code.

4 (b) The board may impose penalties for the failure to make a
5 complete or timely payment to the authority.

6 Sec. 8601.154. ADMINISTRATIVE PENALTY. A person who
7 violates a rule or order of the authority is subject to an
8 administrative penalty of not more than \$5,000, as determined by
9 the board, for each violation or each day of a continuing violation.
10 The person shall pay the penalty to the authority.

11 Sec. 8601.155. DISBURSEMENTS. (a) The authority may
12 disburse authority money by check, draft, order, federal reserve
13 wire system, or other instrument or authorization.

14 (b) Except as provided by Subsection (c), disbursements of
15 the authority must be signed by at least a majority of the
16 directors.

17 (c) The board by resolution may allow the general manager,
18 treasurer, bookkeeper, or other employee or representative of the
19 authority to sign disbursements.

20 Sec. 8601.156. NO AD VALOREM TAXATION OR SPECIAL
21 ASSESSMENTS. The authority may not impose an ad valorem tax or a
22 special assessment.

23 Sec. 8601.157. FISCAL YEAR. The authority's fiscal year
24 begins on October 1 and ends on September 30.

25 Sec. 8601.158. FRANCHISE FEES. The authority may not
26 assess or collect a franchise fee for the use of its real property.
27 The authority may pay a franchise fee to another governmental

1 entity.

2 SUBCHAPTER E. BONDS AND NOTES

3 Sec. 8601.201. REVENUE BONDS AND NOTES. (a) To accomplish
4 the purposes of the authority, the authority may issue bonds or
5 notes payable solely from and secured by all or part of any funds or
6 any revenue from any source or sources, including:

7 (1) tolls, fees, user fees, impact fees, rates, and
8 other charges the authority imposes or collects;

9 (2) the sale of water, water services, water rights or
10 capacity, water transmission rights or services, water pumping,
11 sewer services, or any other service or product of the authority
12 provided inside or outside the boundaries of the authority;

13 (3) grants or gifts;

14 (4) the ownership or operation of all or a designated
15 part of the authority's works, improvements, facilities, plants, or
16 equipment; and

17 (5) contracts between the authority and a member
18 entity, customer, or any other person.

19 (b) Bonds or notes issued by the authority may be first or
20 subordinate lien obligations at the board's discretion.

21 (c) In connection with any bonds or notes of the authority,
22 the authority may exercise any power of an issuer under Chapter
23 1371, Government Code.

24 (d) The authority may conduct a public, private, or
25 negotiated sale of the bonds or notes.

26 (e) The authority may enter into one or more indentures of
27 trust to further secure its bonds or notes.

1 (f) The authority may issue bonds or notes in more than one
2 series as necessary to carry out the purposes of this chapter. In
3 issuing bonds or notes secured by revenue of the authority, the
4 authority may reserve the right to issue additional bonds or notes
5 secured by the authority's revenue that are on parity with or are
6 senior or subordinate to the bonds or notes issued earlier.

7 (g) A resolution of the board or a trust indenture securing
8 the bonds or notes may specify additional provisions that
9 constitute a contract between the authority and its bondholders or
10 noteholders.

11 (h) Bonds and notes may be additionally secured by deed of
12 trust or mortgage on any or all of the authority's facilities.

13 (i) Bonds and notes issued by the authority are not subject
14 to approval by the Texas Commission on Environmental Quality, and
15 commission rules regarding bonds or notes do not apply to bonds or
16 notes issued by the authority.

17 Sec. 8601.202. ELECTION NOT REQUIRED. The authority is not
18 required to hold an election to approve the issuance of revenue
19 bonds or notes or other obligations under this subchapter.

20 Sec. 8601.203. USE OF REVENUE AND GROWTH PROJECTIONS. For
21 the purposes of attorney general review and approval and in lieu of
22 any other manner of demonstrating the ability to pay debt service
23 and satisfy any other pecuniary obligations relating to bonds,
24 notes, or other obligations, the authority may demonstrate its
25 ability to satisfy the debt service and those obligations using
26 accumulated funds of the authority and revenue and growth
27 projections prepared by a professional utility rate consultant at

1 the direction of the authority. If the resolution authorizing the
2 issuance of the bonds, notes, or other obligations provides that
3 the authority intends to increase rates to the extent necessary to
4 pay debt service and satisfy any other pecuniary obligations
5 arising under the bonds, notes, or other obligations, the revenue
6 projections prepared by a professional utility rate consultant may
7 include forecast rate increases and accumulated and available fund
8 balances as determined by the authority.

9 SECTION 5. On the effective date of this Act:

10 (1) the Hill Country Regional Water Authority shall
11 assume all assets, liabilities, and obligations of the West Travis
12 County Public Utility Agency;

13 (2) all contracts and written agreements of the West
14 Travis County Public Utility Agency are assigned to and assumed by
15 the Hill Country Regional Water Authority; and

16 (3) the Utilities Installment Purchase Agreement
17 entered January 17, 2012, between the Lower Colorado River
18 Authority and the West Travis County Public Utility Agency, as
19 amended, is assigned to and assumed by the Hill Country Regional
20 Water Authority created by Section 4 of this Act and is valid and
21 enforceable by its terms. Governmental immunity from liability or
22 suit is waived for the parties to enforce that Utilities
23 Installment Purchase Agreement to the extent provided by Subchapter
24 I, Chapter 271, Local Government Code.

25 SECTION 6. (a) The legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished
3 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4 Government Code.

5 (b) The governor, one of the required recipients, has
6 submitted the notice and Act to the Texas Commission on
7 Environmental Quality.

8 (c) The Texas Commission on Environmental Quality has filed
9 its recommendations relating to this Act with the governor, the
10 lieutenant governor, and the speaker of the house of
11 representatives within the required time.

12 (d) All requirements of the constitution and laws of this
13 state and the rules and procedures of the legislature with respect
14 to the notice, introduction, and passage of this Act are fulfilled
15 and accomplished.

16 SECTION 7. (a) Any eminent domain powers granted by general
17 law that apply to the Hill Country Regional Water Authority, as
18 created by this Act, take effect only if this Act receives a
19 two-thirds vote of all the members elected to each house.

20 (b) If this Act does not receive a two-thirds vote of all the
21 members elected to each house, Subchapter C, Chapter 8601, Special
22 District Local Laws Code, as added by this Act, is amended by adding
23 Section 8601.109 to read as follows:

24 Sec. 8601.109. NO EMINENT DOMAIN POWER. The district may
25 not exercise the power of eminent domain.

26 (c) This section is not intended to be an expression of a
27 legislative interpretation of the requirements of Section 17(c),

1 Article I, Texas Constitution.

2 SECTION 8. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2013.

By: Workman

H.B. No. 2640

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Western Travis County Groundwater Conservation District; providing general law authority to issue bonds and exercise the power of eminent domain; providing general law authority to impose assessments, fees, and taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8871 to read as follows:

CHAPTER 8871. WESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8871.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Western Travis County Groundwater Conservation District.

Sec. 8871.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Travis County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8871.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8871.024 before September 1, 2017:

(1) the district is dissolved on September 1, 2017,

1 except that the district shall:

2 (A) pay any debts incurred;

3 (B) transfer to Travis County any assets that
4 remain after the payment of debts; and

5 (C) maintain the organization of the district
6 until all debts are paid and remaining assets are transferred; and

7 (2) this chapter expires September 1, 2019.

8 Sec. 8871.004. FINDINGS OF PUBLIC USE AND BENEFIT. (a) The
9 district is created to serve a public use and benefit.

10 (b) All land and other property included in the district
11 will benefit from the works and projects accomplished by the
12 district under the powers conferred by Section 59, Article XVI,
13 Texas Constitution.

14 Sec. 8871.005. INITIAL DISTRICT TERRITORY. (a) The
15 district is initially composed of the territory described by
16 Section 2 of the Act creating this chapter.

17 (b) The boundaries and field notes contained in Section 2 of
18 the Act creating this chapter form a closure. A mistake made in the
19 field notes or in copying the field notes in the legislative process
20 does not affect the district's:

21 (1) organization, existence, or validity;

22 (2) right to issue any type of bond for the purposes
23 for which the district is created or to pay the principal of and
24 interest on a bond;

25 (3) right to impose a tax; or

26 (4) legality or operation.

27 Sec. 8871.006. CONFLICTS OF LAW. To the extent of any

1 conflict, this chapter or a rule adopted under this chapter
2 prevails over an ordinance or order of Travis County.

3 SUBCHAPTER A-1. TEMPORARY PROVISIONS

4 Sec. 8871.021. APPOINTMENT OF TEMPORARY DIRECTORS;

5 VACANCIES; TERMS. (a) Five temporary directors shall be appointed
6 not later than the 90th day after the effective date of the Act
7 creating this chapter as follows:

8 (1) the county judge of Travis County shall appoint
9 two temporary directors;

10 (2) the county commissioner for the county
11 commissioners precinct in which the district is located shall
12 appoint one temporary director;

13 (3) the state representative who represents the house
14 district in which the district is located shall appoint one
15 temporary director; and

16 (4) the state senator who represents the senate
17 district in which the district is located shall appoint one
18 temporary director.

19 (b) If a temporary director fails to qualify for office or a
20 vacancy occurs on the temporary board, the remaining temporary
21 directors shall appoint a person to fill the vacancy. If at any time
22 there are fewer than three temporary directors, the governor shall
23 appoint the necessary number of persons to fill all vacancies on the
24 board.

25 (c) Temporary directors serve until the earlier of:

26 (1) the date the creation of the district is confirmed
27 and initial directors are elected at an election held under Section

1 8871.024; or

2 (2) the date the district is dissolved in accordance
3 with Section 8871.003.

4 Sec. 8871.022. ORGANIZATIONAL MEETING. (a) Not later than
5 the 45th day after the date on which the fifth temporary director is
6 appointed under Section 8871.021, the temporary directors shall
7 hold the organizational meeting of the district.

8 (b) The temporary directors shall select from among
9 themselves a president, a vice president, and a secretary.

10 Sec. 8871.023. AUTHORITY OF TEMPORARY DIRECTORS. (a)
11 Except as provided by Subsections (c) and (d) or otherwise by this
12 subchapter, the temporary directors of the district have the same
13 permitting and general management powers as those granted to
14 initial and permanent directors under Chapter 36, Water Code.

15 (b) The temporary directors or their designees have the
16 authority to enter any public or private property located in the
17 district to inspect a water well as provided by Section 36.123,
18 Water Code.

19 (c) Except as provided by Section 8871.024, the temporary
20 directors do not have the authority granted by the following
21 provisions of Chapter 36, Water Code:

22 (1) Sections 36.017, 36.019, 36.020, and 36.059;

23 (2) Sections 36.105, 36.1071, 36.1072, 36.1073, and
24 36.108;

25 (3) Sections 36.171-36.181;

26 (4) Sections 36.201-36.204; and

27 (5) Subchapters J and K.

1 (d) The temporary directors may regulate the transfer of
2 groundwater out of the district as provided by Section 36.122,
3 Water Code, but may not prohibit the transfer of groundwater out of
4 the district.

5 Sec. 8871.024. CONFIRMATION AND INITIAL DIRECTORS'
6 ELECTION. (a) The temporary directors shall order an election to
7 be held in the district to confirm the creation of the district and
8 to elect the initial directors.

9 (b) At the confirmation and initial directors' election,
10 the temporary board shall have placed on the ballot the names of the
11 candidates for each of the five positions on the board. To be
12 eligible to be a candidate for a position as a director, a person
13 must reside in the district.

14 (c) Section 41.001(a), Election Code, applies to an
15 election held under this section.

16 (d) Except as provided by this section, a confirmation and
17 initial directors' election must be conducted as provided by the
18 Election Code and Sections 36.017(b)-(h), Water Code.

19 (e) If a majority of the votes cast at the election are in
20 favor of confirming the district's creation, the temporary
21 directors shall declare the district created. If a majority of the
22 votes cast are not in favor of confirming the district's creation,
23 the district's creation is not confirmed. The temporary directors
24 shall file a copy of the election results with the Texas Commission
25 on Environmental Quality.

26 (f) If the district's creation is not confirmed at an
27 election held under this section, the temporary directors may order

1 one or more subsequent elections to be held to confirm the creation
2 of the district not earlier than the first anniversary of the
3 preceding confirmation election. If the district's creation is not
4 confirmed at an election held under this section before September
5 1, 2017, the district is dissolved in accordance with Section
6 8871.003.

7 Sec. 8871.025. INITIAL DIRECTORS. (a) If the creation of
8 the district is confirmed at an election held under Section
9 8871.024, the temporary directors, at the time the vote is
10 canvassed, shall:

11 (1) declare for each board position the person who
12 receives the most votes for that position to be elected as the
13 initial director for that position; and

14 (2) include the results of the initial directors'
15 election in the district's election report to the Texas Commission
16 on Environmental Quality.

17 (b) The initial directors elected to positions 1 and 3 serve
18 terms expiring June 1 of the first odd-numbered year after the date
19 of the confirmation election, and the initial directors elected to
20 positions 2, 4, and 5 serve terms expiring June 1 of the second
21 odd-numbered year after the date of the confirmation election.

22 Sec. 8871.026. EXPIRATION OF SUBCHAPTER. This subchapter
23 expires September 1, 2019.

24 SUBCHAPTER B. BOARD OF DIRECTORS

25 Sec. 8871.051. GOVERNING BODY; TERMS. (a) The district is
26 governed by a board of five directors elected at large.

27 (b) Directors serve staggered four-year terms, with two or

1 three directors' terms expiring June 1 of each odd-numbered year.

2 Sec. 8871.052. ELECTION DATE. The district shall hold an
3 election to elect the appropriate number of directors on the
4 uniform election date prescribed by Section 41.001, Election Code,
5 in May of each odd-numbered year.

6 SUBCHAPTER C. POWERS AND DUTIES

7 Sec. 8871.101. GROUNDWATER CONSERVATION DISTRICT POWERS
8 AND DUTIES. Except as otherwise provided by this chapter, the
9 district has the powers and duties provided by the general law of
10 this state, including Chapter 36, Water Code, applicable to
11 groundwater conservation districts created under Section 59,
12 Article XVI, Texas Constitution.

13 SECTION 2. (a) Except as provided by Subsection (b), the
14 Western Travis County Groundwater Conservation District initially
15 includes all the territory contained in the following area:

16 Beginning at the point of intersection of the current western
17 boundary of the Barton Springs-Edwards Aquifer Conservation
18 District and the Colorado River, then following westerly along the
19 southern border of the Colorado River and Lake Travis to the western
20 Travis County Boundary, then proceeding south along the western
21 Travis County Boundary to the intersection of the Travis County
22 boundary and the Hays County boundary, then south east along the
23 southern Travis County boundary to the current western boundary of
24 the Barton Springs Edwards Aquifer Conservation District; then
25 north-east along the western boundary of the Barton Springs-Edwards
26 Aquifer Conservation District, the point of beginning.

27 (b) The territory of the Western Travis County Groundwater

1 Conservation District does not include any territory that is in the
2 corporate limits or extraterritorial jurisdiction of:

- 3 (1) the City of Bee Cave;
- 4 (2) the City of Lakeway; or
- 5 (3) the Village of the Hills.

6 SECTION 3. The Western Travis County Groundwater
7 Conservation District shall hold an election for directors under
8 Section 8871.052, Special District Local Laws Code, as added by
9 this Act, in the first odd-numbered year after the year in which the
10 creation of the district is confirmed.

11 SECTION 4. (a) The legal notice of the intention to
12 introduce this Act, setting forth the general substance of this
13 Act, has been published as provided by law, and the notice and a
14 copy of this Act have been furnished to all persons, agencies,
15 officials, or entities to which they are required to be furnished
16 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
17 Government Code.

18 (b) The governor, one of the required recipients, has
19 submitted the notice and Act to the Texas Commission on
20 Environmental Quality.

21 (c) The Texas Commission on Environmental Quality has filed
22 its recommendations relating to this Act with the governor, the
23 lieutenant governor, and the speaker of the house of
24 representatives within the required time.

25 (d) All requirements of the constitution and laws of this
26 state and the rules and procedures of the legislature with respect
27 to the notice, introduction, and passage of this Act are fulfilled

1 and accomplished.

2 SECTION 5. (a) Any eminent domain powers granted by general
3 law that apply to the Western Travis County Groundwater
4 Conservation District, as created by this Act, take effect only if
5 this Act receives a two-thirds vote of all the members elected to
6 each house.

7 (b) If this Act does not receive a two-thirds vote of all the
8 members elected to each house, Subchapter C, Chapter 8871, Special
9 District Local Laws Code, as added by this Act, is amended by adding
10 Section 8871.102 to read as follows:

11 Sec. 8871.102. NO EMINENT DOMAIN POWER. The district may
12 not exercise the power of eminent domain.

13 (c) This section is not intended to be an expression of a
14 legislative interpretation of the requirements of Section 17(c),
15 Article I, Texas Constitution.

16 SECTION 6. This Act takes effect September 1, 2013.

LEGISLATION RELATING TO
RESTRICTIONS ON LOCAL CONTROL
OVER LAND USE PLANNING, INCLUDING
[HB 3087](#), [HB 3088](#), [HB 3089](#), [HB 3090](#), AND
[HB 3091](#)

By: Workman

H.B. No. 3087

A BILL TO BE ENTITLED

AN ACT

relating to the condemnation of conservation easements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.0122, Property Code, is hereby established as follows:

The application of any law, rule, policy, ordinance or regulation promulgated under the Government Code, Local Government Code, Water Code OR Natural Resources Code that has the effect of requiring that more than 50% of the surface area of an owner's private real property remain in a natural or undeveloped state, exclusive of the 100-year floodplain as determined by agencies of the United States government, is a conservation easement, the establishment and enforcement of which will require:

(a) the consent of the owner under Chapter 183 of the Natural Resources Code; or

(b) the exercise of the power of eminent domain under this Chapter.

SECTION 2. Section 1 does not apply to the following governmental actions:

(a) a lawful forfeiture or seizure of contraband as defined by Article 59.01, Code of Criminal Procedure;

(b) a lawful seizure of property as evidence of a crime or violation of law;

(c) the authority of a municipality, a county, another

1 political subdivision, the state, or an agency of the state, with
2 respect to the implementation or enforcement of an ordinance, a
3 rule, or a statutory standard of a program, plan, or ordinance that
4 was adopted under:

5 (1) the federal Coastal Zone Management Act of
6 1972 (16 U.S.C. Section 1451 et seq.); or

7 (2) Subtitle E, Title 2, Natural Resources Code;

8 (d) a permit, order, rule, regulation, or other action
9 issued, adopted, or undertaken by a municipality, a county, another
10 political subdivision, the state, or an agency of the state in
11 connection with:

12 (1) the federal Coastal Zone Management Act of
13 1972 (16 U.S.C. Section 1451 et seq.); or

14 (2) Subtitle E, Title 2, Natural Resources Code;

15 or

16 (e) the enforcement or implementation of Subchapter B,
17 Chapter 61, Natural Resources Code, as it existed on September 1,
18 1995, or to the enforcement or implementation of any rule or similar
19 measure that was adopted under that subchapter and was in existence
20 on September 1, 1995.

21 (f) an action taken by a political subdivision to
22 ensure compliance with on-site sewage facility regulations
23 promulgated by the Texas Commission on Environmental Quality.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 3087

1 Act takes effect September 1, 2013.

By: Workman

H.B. No. 3088

A BILL TO BE ENTITLED

AN ACT

relating to liability of a political subdivision and potential penalties for a violation of certain laws relating to local permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 245.006, Local Government Code, is amended to read as follows:

(a) Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) This chapter may be enforced [only] through mandamus or declaratory or injunctive relief.

(b) A political subdivision's immunity from suit is waived in regard to an action under this chapter. A political subdivision is liable for actual damages, consequential damages, and attorney's fees related to a violation of this chapter.

SECTION 2. The change in law made by this Act applies to a cause of action that accrues before, on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2013.

By: Workman

H.B. No. 3089

A BILL TO BE ENTITLED

AN ACT

relating to limitations on the application of certain municipal regulations to local permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 245.004, Local Government Code, is amended to read as follows:

Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

(1) a permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:

(a) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or

(b) local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;

~~[(2) municipal zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality,]~~

(23) regulations that specifically control only the use of land in a municipality that does not have zoning and that do

1 not affect landscaping or tree preservation, open space or park
2 dedication, lot size, lot dimensions, lot coverage, or building
3 size;

4 (34) regulations for sexually oriented businesses;

5 (45) municipal or county ordinances, rules,
6 regulations, or other requirements affecting colonias;

7 (56) fees imposed in conjunction with development
8 permits;

9 (67) regulations for annexation that do not affect
10 landscaping or tree preservation or open space or park dedication;

11 (78) regulations for utility connections;

12 (89) regulations to prevent imminent destruction of
13 property or injury to persons from flooding that are effective only
14 within a flood plain established by a federal flood control program
15 and enacted to prevent the flooding of buildings intended for
16 public occupancy;

17 (910) construction standards for public works located
18 on public lands or easements; or

19 (1011) regulations to prevent the imminent
20 destruction of property or injury to persons if the regulations do
21 not:

22 (a) affect landscaping or tree preservation,
23 open space or park dedication, lot size, lot dimensions, lot
24 coverage, building size, residential or commercial density, or the
25 timing of a project; or

26 (b) change development permitted by a
27 restrictive covenant required by a municipality.

1 SECTION 2. The change in law made by this act applies to any
2 project in progress before or commenced after the effective date of
3 this Act.

4 SECTION 3. This Act takes effect September 1, 2013.

By: Workman

H.B. No. 3090

A BILL TO BE ENTITLED

AN ACT

relating to uniformity of requirements of certain municipal regulations to local permits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 245.002, Local Government Code, is amended to read as follows:

Section 245.002, Local Government Code, is amended to read as follows:

(1) the original application for the permit is filed for review for any purpose, including review for administrative completeness; or

(2) a plan for development of real property or plat application is filed with a regulatory agency.

(a-1) Rights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit sought. An application or plan is considered filed on the date the applicant delivers the application or plan to the regulatory agency or deposits the application or plan with the United States Postal Service by certified mail addressed to the regulatory agency. A

certified mail receipt obtained by the applicant at the time of deposit is prima facie evidence of the date the application or plan was deposited with the United States Postal Service.

(b) If a series of permits is required for a project, the orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time the original application for the first permit in that series is filed shall be the sole basis for consideration of all subsequent permits required for the completion of the project. All permits, and any revisions or modifications thereto, required for the project are considered to be a single series of permits. Preliminary plans and related subdivision plats, site plans, and all other development permits for land covered by the preliminary plans or subdivision plats are considered collectively to be one series of permits for a project.

(c) After an application for a project is filed, a regulatory agency may not shorten the duration of any permit required for the project.

(d) Notwithstanding any provision of this chapter to the contrary, a permit holder may take advantage of recorded subdivision plat notes, recorded restrictive covenants required by a regulatory agency, ~~[or]~~ a change to the laws, rules, regulations, or ordinances of a regulatory agency that enhance or protect the project, or a change to the zoning or property classification that adds or alters allowable uses of the property related to the project, including changes that lengthen the effective life of the

H.B. No. 3090

permit after the date the application for the permit was made, without forfeiting any rights under this chapter.

(e) A regulatory agency may provide that a permit application expires on or after the 45th day after the date the application is filed if:

(1) the applicant fails to provide documents or other information necessary to comply with the agency's technical requirements relating to the form and content of the permit application;

(2) the agency provides to the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and

(3) the applicant fails to provide the specified documents or other information within the time provided in the notice.

(f) This chapter does not prohibit a regulatory agency from requiring compliance with technical requirements relating to the form and content of an application in effect at the time the application was filed even though the application is filed after the date an applicant accrues rights under Subsection (a-1).

(g) Notwithstanding Section 245.003, the change in law made to Subsection (a) and the addition of Subsections (a-1), (e), and (f) by S.B. No. 848, Acts of the 79th Legislature, Regular Session,

H.B. No. 3090
2005, apply only to a project commenced on or after the effective
date of that Act.

SECTION 2. The change in law made by this act applies to any
project in progress before or commenced after the effective date of
this Act.

SECTION 3. This Act takes effect September 1, 2013.

By: Workman

H.B. No. 3091

A BILL TO BE ENTITLED

AN ACT

1
2 relating to uniformity of requirements of certain municipal
3 regulations to local permits, limitations on the application of
4 certain municipal regulations to local permits, and liability of a
5 political subdivision for a violation of certain laws relating to
6 local permits; providing for damages/penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 245.002, Local Government Code, is
9 amended to read as follows:

10 Sec. 245.002. UNIFORMITY OF REQUIREMENTS.

11 (a) Each regulatory agency shall consider the approval,
12 disapproval, or conditional approval of an application for a permit
13 solely on the basis of any orders, regulations, ordinances, rules,
14 expiration dates, or other properly adopted requirements in effect
15 at the time:

16 (1) the original application for the permit is filed
17 for review for any purpose, including review for administrative
18 completeness; or

19 (2) a plan for development of real property or plat
20 application is filed with a regulatory agency.

21 (a-1) Rights to which a permit applicant is entitled under
22 this chapter accrue on the filing of an original application or plan
23 for development or plat application that gives the regulatory
24 agency fair notice of the project and the nature of the permit

1 sought. An application or plan is considered filed on the date the
2 applicant delivers the application or plan to the regulatory agency
3 or deposits the application or plan with the United States Postal
4 Service by certified mail addressed to the regulatory agency. A
5 certified mail receipt obtained by the applicant at the time of
6 deposit is prima facie evidence of the date the application or plan
7 was deposited with the United States Postal Service.

8 (b) If a series of permits is required for a project, the
9 orders, regulations, ordinances, rules, expiration dates, or other
10 properly adopted requirements in effect at the time the original
11 application for the first permit in that series is filed shall be
12 the sole basis for consideration of all subsequent permits required
13 for the completion of the project. All permits, and any revisions or
14 modifications thereto, required for the project are considered to
15 be a single series of permits. Preliminary plans and related
16 subdivision plats, site plans, and all other development permits
17 for land covered by the preliminary plans or subdivision plats are
18 considered collectively to be one series of permits for a project.

19 (c) After an application for a project is filed, a
20 regulatory agency may not shorten the duration of any permit
21 required for the project.

22 (d) Notwithstanding any provision of this chapter to the
23 contrary, a permit holder may take advantage of recorded
24 subdivision plat notes, recorded restrictive covenants required by
25 a regulatory agency, ~~or~~ a change to the laws, rules, regulations,
26 or ordinances of a regulatory agency that enhance or protect the
27 project, or a change to the zoning or property classification that

1 adds or alters allowable uses of the property related to the
2 project, including changes that lengthen the effective life of the
3 permit after the date the application for the permit was made,
4 without forfeiting any rights under this chapter.

5 (e) A regulatory agency may provide that a permit
6 application expires on or after the 45th day after the date the
7 application is filed if:

8 (1) the applicant fails to provide documents or other
9 information necessary to comply with the agency's technical
10 requirements relating to the form and content of the permit
11 application;

12 (2) the agency provides to the applicant not later
13 than the 10th business day after the date the application is filed
14 written notice of the failure that specifies the necessary
15 documents or other information and the date the application will
16 expire if the documents or other information is not provided; and

17 (3) the applicant fails to provide the specified
18 documents or other information within the time provided in the
19 notice.

20 (f) This chapter does not prohibit a regulatory agency from
21 requiring compliance with technical requirements relating to the
22 form and content of an application in effect at the time the
23 application was filed even though the application is filed after
24 the date an applicant accrues rights under Subsection (a-1).

25 (g) Notwithstanding Section 245.003, the change in law made
26 to Subsection (a) and the addition of Subsections (a-1), (e), and
27 (f) by S.B. No. 848, Acts of the 79th Legislature, Regular Session,

1 2005, apply only to a project commenced on or after the effective
2 date of that Act.

3 SECTION 2. Section 245.004, Local Government Code, is
4 amended to read as follows:

5 Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

6 (1) a permit that is at least two years old, is issued
7 for the construction of a building or structure intended for human
8 occupancy or habitation, and is issued under laws, ordinances,
9 procedures, rules, or regulations adopting only:

10 (A) uniform building, fire, electrical,
11 plumbing, or mechanical codes adopted by a recognized national code
12 organization; or

13 (B) local amendments to those codes enacted
14 solely to address imminent threats of destruction of property or
15 injury to persons;

16 ~~[(2) municipal zoning regulations that do not affect~~
17 ~~landscaping or tree preservation, open space or park dedication,~~
18 ~~property classification, lot size, lot dimensions, lot coverage, or~~
19 ~~building size or that do not change development permitted by a~~
20 ~~restrictive covenant required by a municipality,]~~

21 (32) regulations that specifically control only the
22 use of land in a municipality that does not have zoning and that do
23 not affect landscaping or tree preservation, open space or park
24 dedication, lot size, lot dimensions, lot coverage, or building
25 size;

26 (43) regulations for sexually oriented businesses;

27 (54) municipal or county ordinances, rules,

1 regulations, or other requirements affecting colonias;

2 (~~6~~5) fees imposed in conjunction with development
3 permits;

4 (~~7~~6) regulations for annexation that do not affect
5 landscaping or tree preservation or open space or park dedication;

6 (~~8~~7) regulations for utility connections;

7 (~~9~~8) regulations to prevent imminent destruction of
8 property or injury to persons from flooding that are effective only
9 within a flood plain established by a federal flood control program
10 and enacted to prevent the flooding of buildings intended for
11 public occupancy;

12 (~~10~~9) construction standards for public works located
13 on public lands or easements; or

14 (~~11~~10) regulations to prevent the imminent destruction
15 of property or injury to persons if the regulations do not:

16 (A) affect landscaping or tree preservation,
17 open space or park dedication, lot size, lot dimensions, lot
18 coverage, building size, residential or commercial density, or the
19 timing of a project; or

20 (B) change development permitted by a
21 restrictive covenant required by a municipality.

22 SECTION 3. Section 245.006, Local Government Code, is
23 amended to read as follows:

24 Sec. 245.006. ENFORCEMENT OF CHAPTER.

25 (a) This chapter may be enforced [~~only~~] through mandamus or
26 declaratory or injunctive relief.

27 (b) A political subdivision's immunity from suit is waived

1 in regard to an action under this chapter. A political subdivision
2 is liable for actual damages, consequential damages, and attorneys'
3 fees related to a violation of this chapter.

4 SECTION 4. The change in law made by this Act applies to any
5 project in progress before or commenced after the effective date of
6 this Act or to a cause of action that accrues before, on, or after
7 the effective date of this Act.

8 SECTION 5. This Act takes effect September 1, 2013.

LEGISLATION RELATING TO
RESTRICTIONS ON LOCAL CONTROL
OVER ENVIRONMENTAL ENFORCEMENT,
INCLUDING [HB 3117](#) AND [HB 3119](#);

By: Burkett

H.B. No. 3117

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the attorney general to settle certain civil suits initiated by a local government.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 7, Water Code, is amended by adding Section 7.359 to read as follows:

Sec. 7.359. SETTLEMENT AUTHORITY. The attorney general may settle in full satisfaction of the claims asserted a civil suit brought by a local government under this subchapter without the consent or approval of the local government:

(1) for an amount that is consistent with the policies of the state; or

(2) at the direction of the commission.

SECTION 2. The change in law made by this Act applies only to a civil suit under Subchapter H, Chapter 7, Water Code, that is filed on or after the effective date of this Act. A civil suit filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

By: Burkett

H.B. No. 3119

A BILL TO BE ENTITLED

AN ACT

relating to contingent fee contracts for representation of local governments in certain environmental enforcement actions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 7, Water Code, is amended by adding Section 7.359 to read as follows:

Sec. 7.359. PROHIBITION ON CERTAIN CONTINGENT FEE CONTRACTS. A local government that is a public agency as defined by Section 30.003 may not enter into a contingent fee contract as described by Section 2254.101, Government Code, for legal services associated with a civil suit brought under this subchapter.

SECTION 2. The change in law made by this Act applies only to a civil suit under Subchapter H, Chapter 7, Water Code, that is filed on or after the effective date of this Act. A civil suit filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.



Intergovernmental Relations

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TO: Travis County Commissioners Court

THROUGH: Deece Eckstein, Coordinator, Intergovernmental Relations

DATE: Thursday, March 21, 2013 for Tuesday, March 26, 2013

RE: House Bill 2899 – sick leave pay

SUGGESTED MOTION

That the Travis County Commissioners Court oppose House Bill 2899 as filed and direct IGR and the legislative consultants to work with the author to fashion an acceptable committee substitute.

Summary and IGR Coordinator Recommendation

House Bill 2899 would require Travis County to permit sheriff's department employees to accumulate unlimited sick leave and, upon separation from the department *for any reason*, to be paid in a lump sum for the cash value of up to 720 hours of accumulated leave.

IGR recommends that the Court oppose this bill as filed, send a letter to Representative Naishtat to that effect, and direct IGR and the legislative consultants to work with Representative Naishtat's office to fashion an acceptable substitute.

Issues and Opportunities

Representative Elliott Naishtat has filed HB 2899, relating to the accumulation and payment of sick leave for employees in certain sheriff's departments. The bill applies only to Travis County, and would require the County to pay Sheriff's Department employees subject to the POPS pay scale for up to 720 hours of accumulated sick leave upon separation, computed at the highest permanent pay classification of that employee during the last six months of service. By contrast, other County employees may only be compensated for half of their accumulated sick leave up to 480 hours, i.e., a maximum of 240 hours.

The bill is silent on whether the windfall applies only to sick leave accumulated *after* the effective date of the act.

This bill is problematic on several grounds:

- ★ It **contradicts the principle of local control** by creating a state mandate on how employment benefits are determined by counties.
- ★ It creates an **unfunded mandate** on the County.
- ★ It confers that benefit on any employee “who leaves the classified service for any reason” (emphasis added), including **termination for cause**.
- ★ It **treats certain sheriff’s department employees differently** from other county employees without a legislative rationale for that distinction.
- ★ It does not clarify whether this new benefit applies only to sick leave hours earned after the **effective date**.

This bill as drafted applies only to Travis County.

Budgetary and Fiscal Impact

The bill has a significant fiscal impact on the County. Please find attached a memo from Travis Gatlin of the Planning and Budget Office. It updates an analysis he performed two years ago on similar legislation. Also attached is a spreadsheet contrasting other counties’ sick leave accumulation policies.

Legislative History

Representative Valinda Bolton filed similar legislation in 2009, [HB 3158](#). In 2011, Representative Elliott Naishtat filed the same bill, [HB 1490](#). The only difference between those bills and this one is that the newer version is bracketed to Travis County. HB 3158 died in committee; HB 1490 did not even get a hearing.

The Commissioners Court opposed both bills, as did the Conference of Urban Counties (CUC), the Texas Association of Counties (TAC) and the County Judges and Commissioners Association of Texas (CJCAT).

ATTACHMENTS:

- 1) Travis County PBO, “Impact of HB 2899.” March 19, 2013.

Travis County Intergovernmental Relations

Deece Eckstein, Coordinator

March 26, 2013, Page 3

- 2) Draft letter to Representative Elliott Naishtat, for action and execution on March 26, 2013.
- 3) House Bill 2899, 83rd Texas Legislature.
- 4) Travis County IGR, Comparison of Major Counties Sick Leave Policy, March 21, 2013.

PLANNING AND BUDGET OFFICE
TRAVIS COUNTY, TEXAS



314 W. 11th Street
P.O. Box 1748
Austin, Texas 78767

MEMORANDUM

TO: Commissioners Court *Travis R. Matlin*
FROM: Travis R. Gatlin, Assistant Budget Director
DATE: March 19, 2013
SUBJECT: Impact of HB 2899

The Planning and Budget Office has been asked to provide the Commissioners Court with a fiscal analysis of House Bill 2899. The bill is an unfunded mandate that would have an extraordinary fiscal impact to Travis County and weaken local control of taxpayer dollars through increasing the County's fiscal exposure to accumulated sick time payout at termination for Travis County Sheriff's Office (TCSO) Peace Officer Pay Scale (POPS) employees, which comprise approximately a quarter of the County's workforce.

The current policy applies to all employees and allows for the payment of one-half (1/2) of accumulated sick pay up to a maximum of 240 hours (half of 480) at the rate of pay upon termination. This means that any sick pay accumulation above 480 hours is not paid at termination and that hours at or below that amount are paid at 50%. HB 2899 would require the County to pay 100% of up to 720 hours of accumulated sick time at termination for TCSO POPS employees. Any accumulated time greater than 720 hours would not be paid at termination and any time less than or equal to 720 hours would be paid at the actual number of accumulated sick time hours. Similar bills have been filed in each of the last two legislative sessions and have been opposed by the Commissioners Court. HB 2899 is slightly different than the previous proposed bills in that HB 2899 applies only to employees on the Peace Officer Pay Scale in TCSO rather than all employees in the Sheriff's Office. HB 2899 has also been bracketed to apply only to Travis County rather than all large urban counties as was the case in the two previous versions.

The proposed change is estimated to increase the potential costs of accumulated sick time payouts at termination for TCSO POPS employees by \$9.5 million, from \$6.4 million to \$15.9 million. This is a 148% increase in costs over the current policy. If the mandated sick time payout from HB 2899 was applied to all County employees, the estimated increase to the potential payout of accumulated sick time at termination would increase by \$21.5 million, from \$16 million to \$37.5 million, which is a 134% increase. These calculated estimates are based on data as of March 7, 2013, and may also change depending on turnover, FTE changes and changes in sick time balances. The analysis and estimates provided by PBO assume that if HB 2899 passes, it would apply retroactively to sick time hours already accumulated by TCSO POPS employees. Should this not be the case and it only applies prospectively to future hours accumulated after the effective date of the bill, the short term estimated impact will be less. The long term impact should be similar to the estimates provided above. In addition, HB 2899 would result in the County treating TCSO POPS employees significantly different than all other County employees (Classified and Non-TCSO POPS) with regard to this benefit policy. The last time a similar bill was discussed, Commissioners Court requested the impact if the change was applied

to all other County employees along with the potential tax rate implications. The following tables summarize the potential impact of the HB 2899.

Table I: Detailed Snapshot Impact of HB 2899 on TCSO POPS (as of March 7, 2013)					
Accrued Sick Leave Hours	# of Employees	Avg. Tenure	Incremental County Cost of HB 2899 on Sick Leave Payout (Salary and Benefits)	Per Employee - Incremental Sick Leave Payout from HB 2899 (Salary and Benefits)	Per Employee - Total Sick Leave Payout. Current Policy+HB 2899 (Salary and Benefits)
<240 Hours	533	7.5 yrs	\$914,125	\$1,715	\$3,430
240-479	265	12.3 yrs	\$1,695,682	\$6,399	\$12,798
480-719	144	15.1 yrs	\$2,084,359	\$14,475	\$24,152
>=720	219	19.8 yrs	\$4,799,920	\$21,917	\$32,876
Total for TCSO	1,161	11.8 yrs	\$9,494,086	\$8,178	\$13,693

Table II: Detailed Snapshot Impact of All Other Employees (Classified and Non-TCSO POPS) if Matched to HB 2899 (as of March 7, 2013)					
Accrued Sick Leave Hours	# of Employees	Avg. Tenure	Incremental County Cost of HB 2899 on Sick Leave Payout (Salary and Benefits)	Per Employee - Incremental Sick Leave Payout from HB 2899 (Salary and Benefits)	Per Employee - Total Sick Leave Payout. Current Policy+HB 2899 (Salary and Benefits)
<240 Hours	2,682	7.3 yrs	\$2,907,792	\$1,084	\$2,168
240-479	546	11.2 yrs	\$3,256,198	\$5,964	\$11,927
480-719	209	15.0 yrs	\$2,725,700	\$13,042	\$22,100
>=720	162	20.4 yrs	\$3,110,335	\$19,200	\$28,800
Total for All Other Departments	3,599	8.9 yrs	\$12,000,044	\$3,334	\$6,005

Table III: Combined Incremental Total if HB 2899 was Applied to All Employees (Table I and II) above Current Policy				
Employee Group	# of Employees	% of Employees	Avg. Tenure	Incremental Sick Leave Payout
TCSO POPS	1,161	24.39%	11.8 yrs	\$9,494,086
All Other Employees	3,599	75.61%	8.9 yrs	\$12,000,044
Combined Total	4,760	100.00%	9.6 yrs	\$21,494,130

Table IV: Tax Rate Implications*			
	Estimated On-going Impact for Increased Sick Leave Payout.	Tax Rate Required	Estimated Annual Impact to Avg. Appraised Homestead
HB 2899 on TCSO POPS	\$1.5 - \$3 million	\$.0015 to \$.0030	\$3.30 to \$6.60
If County policy was changed to match HB 2899 so it applied to all employees	\$3 - \$6 million	\$.0030 to \$.0060	\$6.60 to \$13.20

*Assumes additional expenses could not be absorbed within Preliminary Budget given current budget guidelines. Range given for ongoing impact given the large number of long tenured employees that would be eligible to be paid the maximum 720 hours of sick leave, and the likelihood they would terminate in the near term since they have approximately 20 years of service. The other alternative to using new tax resources would be to remove a corresponding amount of funding for services from the existing budget or a combination of both.

Recommendation

Because of the extraordinary fiscal impact on the County and loss of local control over taxpayer resources, along with the disparity in sick time payout at termination that would occur internally for TCSO POPS employees and the approximately 75% of the County's remaining workforce, PBO recommends that the Commissioners Court oppose HB 2899.

If you have questions, please give me a call at 4-9065 or e-mail me at travis.gatlin@co.travis.tx.us.

CC: Deece Eckstein, Intergovernmental Relations Coordinator
Greg Hamilton, County Sheriff
Terri Brown, Michael Hemby, Meg Seville, Paul Matthews, Maria Wedhorn, TCSO
Lorrie Pickering, Civil Services Coordinator
Sergeant James Hodge, TCSOA
Lieutenant Nate Gillespie, TCSOA
Nicki Riley, County Auditor
Kathryn Madden, Beth Blankenship, Greg Jacobs, County Auditor's Office
Jim Connolly, County Attorney's Office
PBO



TRAVIS COUNTY COMMISSIONERS COURT

RON DAVIS
Commissioner, Pct. 1

SAMUEL T. BISCOE
County Judge

SARAH ECKHARDT
Commissioner, Pct. 2

GERALD DAUGHERTY
Commissioner, Pct. 3

MARGARET J. GÓMEZ
Commissioner, Pct. 4

March 26, 2013

The Honorable Elliott Naishtat
State Representative, District 49
Room GW.16, Capitol Building
Austin, TX

Dear Representative Naishtat:

On March 26, 2013, the Travis County Commissioners Court voted to oppose House Bill 2899 as filed. The Court identified several concerns with the bill:

- It violates the principle of local control by creating a state mandate on how employment benefits are to be determined by a local government.
- It creates an unfunded mandate on the County.
- It treats certain sheriff's department employees differently from other county employees without a legislative rationale for that distinction.
- It does not clarify whether this new benefit applies only to sick leave hours earned after the effective date.

As shown by the attached memorandum, prepared by our Planning and Budget Office, the bill would require the County to potentially pay up to \$9.5 million above the current sick leave pay policy. This is a substantial unfunded mandate that would be a burden for the County and could force a tax increase.

We welcome the opportunity to work with you and your staff to improve this bill if possible, but cannot support it as drafted. Please contact Deece Eckstein, our Intergovernmental Relations Officer, if we can provide additional information to you.

Sincerely,

SAMUEL T. BISCOE
COUNTY JUDGE

RON DAVIS
COMMISSIONER, PRECINCT 1

SARAH ECKHARDT
COMMISSIONER, PRECINCT 2

GERALD DAUGHERTY
COMMISSIONER, PRECINCT 3

MARGARET J. GÓMEZ
COMMISSIONER, PRECINCT 4

Cc: Members of the Travis County legislative delegation
Conference of Urban Counties
Texas Association of Counties
County Judges and Commissioners Association of Texas

By: Naishtat

H.B. No. 2899

A BILL TO BE ENTITLED

AN ACT

relating to the accumulation and payment of sick leave for certain employees in sheriff's departments in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 158, Local Government Code, is amended by adding Section 158.0365 to read as follows:

Sec. 158.0365. ACCUMULATION AND PAYMENT OF SICK LEAVE FOR CERTAIN EMPLOYEES. (a) This section applies only to the following employees of a sheriff's department civil service system created by a county with a population of more than 900,000 and less than 1.5 million:

(1) a peace officer included under Article 2.12, Code of Criminal Procedure; or

(2) a county jailer as defined by Section 1701.001, Occupations Code.

(b) An employee may accumulate sick leave without limit and may use the leave if the employee is unable to work because of a bona fide illness.

(c) An employee who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the employee's salary for accumulated sick leave if the employee has accumulated not more than 720 hours of sick leave. If an employee has accumulated more than 720 hours of sick leave, the employer may limit payment to the amount that the employee would

1 have received if the employee had been allowed to use 720 hours of
2 accumulated sick leave during the last six months of the employee's
3 employment. The lump-sum payment is computed by compensating the
4 employee for the accumulated time at the highest permanent pay
5 classification for which the employee was eligible during the last
6 six months of the employee's employment. The employer shall pay the
7 employee for the same period for which the employee would have been
8 paid if the employee had taken sick leave, other than for additional
9 holidays, sick leave, or vacation time that the employee would have
10 accrued during the 720 hours.

11 SECTION 2. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2013.

County Sick Leave Policies

<u>COUNTY</u>	SICK LEAVE		SEPARATION POLICY				Non-Sheriff's	
	MONTHLY	MAXIMUM	SERVICE	HOURS	PERCENTAGE			Civil Service
	<u>ACCRUAL</u>	<u>HOURS</u>	<u>THRESHOLD</u>	<u>ACCRUABLE</u>	<u>PAYABLE</u>			<u>Information</u>
Bexar	8 hours	720	5 years	240	50%			Same
Dallas	8 hours	No Maximum	5 Years	No Maximum	At Least (Yrs.)	But Less Than (Yrs.)	%	Same
					5	10	5	
					10	15	10	
					15	20	15	
					20	25	20	
					25	30	25	
					30	35	30	
					35	40	35	
					40	45	40	
					45	50	45	
					50	51 plus	50	
El Paso	8 hours	No Maximum	None	No Maximum	Up to 720 Hours 100%, then 1/3rd Over 720			None
Harris	8 hours	480	NA	0	0%			No Payout

County Sick Leave Policies

<u>COUNTY</u>	SICK LEAVE		SEPARATION POLICY			Non-Sheriff's
	MONTHLY	MAXIMUM	SERVICE	HOURS	PERCENTAGE	Civil Service
	<u>ACCRUAL</u>	<u>HOURS</u>	<u>THRESHOLD</u>	<u>ACCRUABLE</u>	<u>PAYABLE</u>	<u>Information</u>
Tarrant	8 hours	No Maximum	5 Years	1,040	5Yrs - 15.5% for 88Hrs 6Yrs - 18.0% for 120 Hrs 7Yrs - 20.5% for 160 Hrs 8Yrs - 23.0% for 200 Hrs 9Yrs - 25.5% for 248 Hrs 10Yrs - 28.8% for 296 Hrs 11Yrs - 30.5% for 352 Hrs 12Yrs - 33.0% for 408 Hrs 13Yrs - 35.5% for 480 Hrs 14Yrs - 38.0% for 544 Hrs 15Yrs - 40.5% for 624 Hrs 16Yrs - 43.0% for 704 Hrs 17Yrs - 45.5% for 784 Hrs 18Yrs - 48.0% for 840 Hrs 19Yrs - 50.0% for 848 Hrs For Yr 20 Through 33 it is 50% of 856 to 1,040 Hours at an annual rate of 8 hours.	Not Available
Travis	8 hours	No Maximum	None	480	50%	Same