



## 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:**

Tanya Acevedo, Interim Chief Information Officer  
Travis County Information Technology Services  
Phone: 854-8685  
Email: [Tanya.Acevedo@co.travis.tx.us](mailto:Tanya.Acevedo@co.travis.tx.us)

Daniel Bradford, Assistant County Attorney

County Attorney's Office  
Phone: 854-3718  
Email: [Daniel.Bradford@co.travis.tx.us](mailto:Daniel.Bradford@co.travis.tx.us)

Leslie Browder, County Executive  
Planning and Budget Office  
Phone: 854-8679  
Email: [Leslie.Browder@co.travis.tx.us](mailto:Leslie.Browder@co.travis.tx.us)

David Escamilla  
County Attorney  
Phone: 854-9415  
Email: [David.Escamilla@co.travis.tx.us](mailto:David.Escamilla@co.travis.tx.us)

Sherri Fleming, County Executive  
Health and Human Services/Veterans Services  
Phone: 854-4101  
Email: [Sherri.Fleming@co.travis.tx.us](mailto:Sherri.Fleming@co.travis.tx.us)

Cyd Grimes  
Purchasing Agent  
Phone: 854-9700  
Email: [Cyd.Grimes@co.travis.tx.us](mailto:Cyd.Grimes@co.travis.tx.us)

John Hille, Transactions Division Director  
County Attorney's Office  
Phone: 854-9642  
Email: [John.Hille@co.travis.tx.us](mailto:John.Hille@co.travis.tx.us)

Danny Hobby, County Executive  
Emergency Services  
Phone: 854-4416  
Email: [Danny.Hobby@co.travis.tx.us](mailto:Danny.Hobby@co.travis.tx.us)

Roger Jefferies, County Executive

Justice and Public Safety

Phone: 854-4415

Email: [Roger.Jefferies@co.travis.tx.us](mailto:Roger.Jefferies@co.travis.tx.us)

Gregg Knaupe

Travis County Legislative Consultant

Phone: 499-8826

Email: [Gregg@KnaupeGR.com](mailto:Gregg@KnaupeGR.com)

Steven Manilla, County Executive

Transportation and Natural Resources

Phone: 854-9429

Email: [Steven.Manilla@co.travis.tx.us](mailto:Steven.Manilla@co.travis.tx.us)

Nicki Riley

Travis County Auditor

Phone: 854-3227

Email: [Nicki.Riley@co.travis.tx.us](mailto:Nicki.Riley@co.travis.tx.us)

Jessica Rio, Budget Director

Planning and Budget Office

Phone: 854-4455

Email: [Jessica.Rio@co.travis.tx.us](mailto:Jessica.Rio@co.travis.tx.us)

Aerin-Renee Toussaint, Budget Analyst II

Planning and Budget Office

Phone: 854-1160

Email: [Aerin.Toussaint@co.travis.tx.us](mailto:Aerin.Toussaint@co.travis.tx.us)

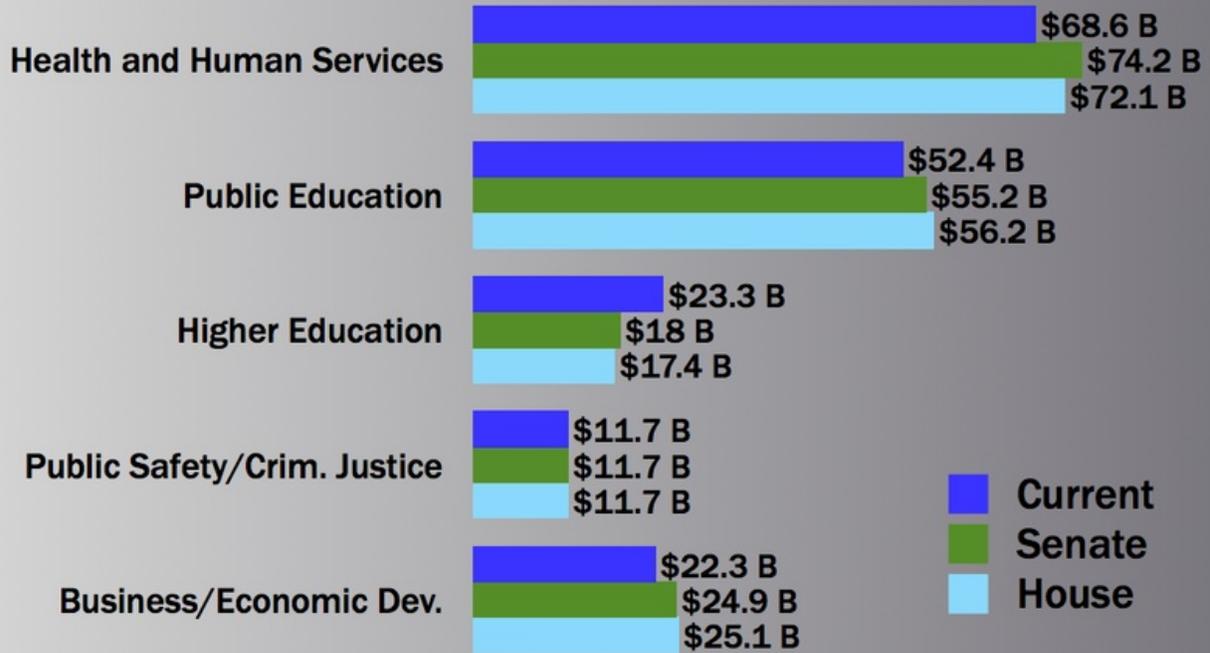
#### ATTACHMENTS:

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

3. 83<sup>rd</sup> Texas Legislature, Water and Groundwater Regulation Bills, compiled March 27, 2013.
4. 83<sup>rd</sup> Texas Legislature, Restrictions on Local Control over Land Use Bills, compiled March 27, 2013.
5. 83<sup>rd</sup> 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
<b>THURSDAY</b>		10-Jan	17-Jan	24-Jan	31-Jan	7-Feb	14-Feb	21-Feb	28-Feb	7-Mar	14-Mar
	<b>HBs</b>	446	550	686	845	1,035	1,282	1,582	2,001	2,841	3,862
	<b>HJR</b> s	39	43	44	51	58	63	72	83	106	130
	<b>SB</b> s	149	162	209	268	386	528	669	906	1,305	1,823
	<b>SJR</b> s	11	13	16	20	22	29	30	36	45	59
<b>TOTAL</b>	<b>BILLS</b>	645	768	955	1,184	1,501	1,902	2,353	3,026	4,297	5,874
<b>TRAVIS COUNTY</b>											
	<b>TRACKED</b>	167	281	305	368	474	551	636	712	1,064	1,428
	<b>ANALYSES</b>	109	137	281	346	430	485	627	723	878	1,135
	<b>SUPPORT</b>	0	0	0	0	0	0	0	0	0	3
	<b>OPPOSE</b>	0	0	0	0	1	1	1	2	14	14

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

AN ACT

1  
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.

4 Sec. 8601.158. FRANCHISE FEES. The authority may not  
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.

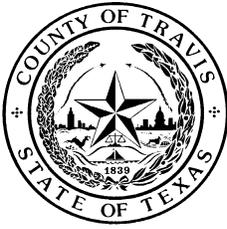
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

**Deece Eckstein, Coordinator**

700 Lavaca Building, Suite 360  
Austin, TX 78701

(512) 854-9754

[deece.eckstein@co.travis.tx.us](mailto:deece.eckstein@co.travis.tx.us)

Twitter: [@TravCo\\_IGR](https://twitter.com/TravCo_IGR)

**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

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- 2) Draft letter to Representative Elliott Naishtat, for action and execution on March 26, 2013.
- 3) House Bill 2899, 83<sup>rd</sup> 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.

<b>Table I: Detailed Snapshot Impact of HB 2899 on TCSO POPS (as of March 7, 2013)</b>					
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
<b>Total for TCSO</b>	<b>1,161</b>	<b>11.8 yrs</b>	<b>\$9,494,086</b>	<b>\$8,178</b>	<b>\$13,693</b>

<b>Table II: Detailed Snapshot Impact of All Other Employees (Classified and Non-TCSO POPS) if Matched to HB 2899 (as of March 7, 2013)</b>					
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
<b>Total for All Other Departments</b>	<b>3,599</b>	<b>8.9 yrs</b>	<b>\$12,000,044</b>	<b>\$3,334</b>	<b>\$6,005</b>

<b>Table III: Combined Incremental Total if HB 2899 was Applied to All Employees (Table I and II) above Current Policy</b>				
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
<b>Combined Total</b>	<b>4,760</b>	<b>100.00%</b>	<b>9.6 yrs</b>	<b>\$21,494,130</b>

<b>Table IV: Tax Rate Implications*</b>			
	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](mailto: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>																																
<b>Bexar</b>	8 hours	720	5 years	240	50%		Same																																
<b>Dallas</b>	8 hours	No Maximum	5 Years	No Maximum	<table border="1"> <thead> <tr> <th>At Least (Yrs.)</th> <th>But Less Than (Yrs.)</th> <th>%</th> </tr> </thead> <tbody> <tr><td>5</td><td>10</td><td>5</td></tr> <tr><td>10</td><td>15</td><td>10</td></tr> <tr><td>15</td><td>20</td><td>15</td></tr> <tr><td>20</td><td>25</td><td>20</td></tr> <tr><td>25</td><td>30</td><td>25</td></tr> <tr><td>30</td><td>35</td><td>30</td></tr> <tr><td>35</td><td>40</td><td>35</td></tr> <tr><td>40</td><td>45</td><td>40</td></tr> <tr><td>45</td><td>50</td><td>45</td></tr> <tr><td>50</td><td>51 plus</td><td>50</td></tr> </tbody> </table>	At Least (Yrs.)	But Less Than (Yrs.)	%	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	Same
At Least (Yrs.)	But Less Than (Yrs.)	%																																					
5	10	5																																					
10	15	10																																					
15	20	15																																					
20	25	20																																					
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30	35	30																																					
35	40	35																																					
40	45	40																																					
45	50	45																																					
50	51 plus	50																																					
<b>El Paso</b>	8 hours	No Maximum	None	No Maximum	Up to 720 Hours 100%, then 1/3rd Over 720		None																																
<b>Harris</b>	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>
<b>Tarrant</b>	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
<b>Travis</b>	8 hours	No Maximum	None	480	50%	Same