The duty under this subchapter of the division to review and verify real property records and to make recommendations regarding real property and of the commissioner to prepare a report involving real property does not apply to:

(1) the real property of an institution of higher education;
(2) the real property that is part of a fund created or specifically authorized by the constitution of this state and that is administered by or with the assistance of the land office;
(3) the real property of the Employees Retirement System of Texas; [and]
(4) the real property of the Teacher Retirement System of Texas; and
(5) the real property located in the Capitol complex, as defined by Section 443.0071, Government Code.

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

Passed the Senate on April 4, 2013: Yeas 30, Nays 0; the Senate concurred in House amendments on May 23, 2013: Yeas 31, Nays 0; passed the House, with amendments, on May 17, 2013: Yeas 139, Nays 0, three present not voting.

Approved June 14, 2013.
Effective June 14, 2013.

CHAPTER 1340
S.B. No. 958
AN ACT
relating to the liability of certain special-purpose districts or authorities providing water to a purchaser for the generation of electricity.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. WATER SUPPLY CONTRACT CLAIM AGAINST LOCAL DISTRICT OR AUTHORITY

Sec. 113.001. DEFINITIONS. In this chapter:

(1) “Adjudicating a claim” means the bringing of a civil suit and prosecution to final judgment in court and includes the bringing of an authorized arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract that is the subject of the dispute under Section 113.002.

(2) “Local district or authority” means a special-purpose district or authority, including a levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, fresh water supply district, navigation district, special utility district, and river authority, and any conservation and reclamation district.

Sec. 113.002. WAIVER OF IMMUNITY TO SUIT FOR CLAIM REGARDING WATER SUPPLY CONTRACT. A local district or authority that enters into a written contract stating the essential terms under which the local district or authority is to provide water to a purchaser for use in connection with the generation of electricity waives sovereign immunity to suit for the purpose of adjudicating a claim that the local district or authority breached the contract by not providing water, or access to water, according to the contract's terms.
Sec. 113.003. REMEDIES. (a) Except as provided by Subsection (b), remedies awarded in a proceeding adjudicating a claim under this chapter may include any remedy available for breach of contract that is not inconsistent with the terms of the contract, including the cost of cover and specific performance.

(b) Remedies awarded in a proceeding adjudicating a claim under this chapter may not include consequential or exemplary damages.

Sec. 113.004. NO WAIVER OF OTHER DEFENSES. This chapter does not waive a defense or a limitation on damages available to a party to a contract other than sovereign immunity to suit.

Sec. 113.005. NO WAIVER OF IMMUNITY TO SUIT IN FEDERAL COURT. This chapter does not waive sovereign immunity to suit in federal court.

Sec. 113.006. NO WAIVER OF IMMUNITY TO SUIT FOR TORT LIABILITY. This chapter does not waive sovereign immunity to suit for a cause of action for a negligent or intentional tort.

Sec. 113.007. NO NEW OR ADDITIONAL WATER RIGHTS. This chapter does not grant any user of water any new or additional rights to water or any new or additional priority to water rights. This chapter does not confer any rights inconsistent with the terms of the contract that is the subject of a dispute under Section 113.002.

Sec. 113.008. AUTHORITY OF REGULATORY AGENCIES; COMPLIANCE WITH REGULATORY ORDER. (a) This chapter does not limit the authority of the Texas Commission on Environmental Quality or any other state regulatory agency.

(b) Compliance with an order of the Texas Commission on Environmental Quality or any other state regulatory agency that expressly curtails water delivery to a specific electric generating facility is not considered a breach of contract for the purposes of this chapter.

Sec. 113.009. NO THIRD-PARTY BENEFICIARIES. (a) This chapter waives sovereign immunity only for the benefit of:

(1) a party to the contract that is the subject of a dispute under Section 113.002; or

(2) the assignee of a party to the contract, if assignment of an interest in the contract is permitted by the terms of the contract.

(b) Except for an assignment described by Subsection (a)(2), a party authorized by this chapter to sue for a cause of action of breach of contract may not transfer or assign that cause of action to any person.

SECTION 2. (a) The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) The change in law made by this Act does not waive sovereign immunity to suit for any claims related to or arising out of a contract that was the subject of litigation that was adjudicated or dismissed on the basis of sovereign immunity prior to the effective date of this Act.

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

Passed the Senate on April 11, 2013: Yeas 31, Nays 0; passed the House on May 20, 2013: Yeas 144, Nays 3, two present not voting.

Approved June 14, 2013.

Effective June 14, 2013.