

## **BILL ANALYSIS**

Senate Research Center  
85R7935 TSR-F

S.B. 1198  
By: Zaffirini; Campbell  
Agriculture, Water & Rural Affairs  
3/29/2017  
As Filed

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

The Hays Caldwell Public Utility Agency (HCPUA) was formed in 2007 by the cities of Buda, Kyle, and San Marcos, and the Canyon Regional Water Authority, to jointly develop a water supply project for the growing population in the Interstate Highway (IH) 35 corridor between Austin and San Antonio. The two-phase project will secure a water supply for these areas until 2060 and will involve an investment estimated at more than \$200 million. While it has fostered regional sharing and joint long-term water planning, HCPUA seeks to convert from a public utility agency to a regional water authority to advance to the next level and better serve its member customers.

S.B. 1198 thus would convert HCPUA to the Alliance Regional Water Authority (ARWA). This conversion would allow HCPUA to clean up some confusing points in the original legislation and adopt a more efficient set of governing rules—rules better suited to the evolving role of HCPUA as a major regional conduit for water supply among its sponsors along the I-35/SH 130 corridors.

Pursuant to the bill, HCPUA would become a conservation and reclamation district under Section 59, Article XVI, Texas Constitution. All assets, liabilities, bonds, notes, contracts, agreements—all legal assets and obligations of HCPUA—would transfer to ARWA. ARWA's sponsors would remain the same as HCPUA's. What's more, just like the current HCPUA, ARWA would be governed by a board apportioned among the sponsoring members, based on the amount of water committed to each sponsor in HCPUA's water supply contracts.

S.B. 1198 would allow ARWA to develop water supplies and provide wastewater treatment to its sponsors on a wholesale basis. The bill would allow ARWA to enter into contracts with non-sponsors for water or wastewater services, including partnerships with others in infrastructure capacity. The current boundaries would not change when HCPUA converts to ARWA.

Finally, the bill would provide ARWA with the same power of eminent domain as those of its sponsors, while directing that this power could never be used to condemn and acquire private landowner water rights. It also would prohibit ARWA from imposing ad valorem taxes.

As proposed, S.B. 1198 amends current law relating to the conversion of the Hays Caldwell Public Utility Agency to the Alliance Regional Water Authority; provides authority to issue bonds; grants the power of eminent domain; and provides authority to impose fees.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. (a) Converts the Hays Caldwell Public Utility Agency (agency) to a conservation and reclamation district to be known as the Alliance Regional Water Authority (authority) located in Bexar, Caldwell, Comal, Guadalupe, and Hays Counties.

(b) Exempts the authority from the requirement of holding an election to confirm the creation of the authority.

SECTION 2. Amends Subtitle X, Title 6, Special District Local Laws Code, by adding Chapter 11010, as follows:

#### CHAPTER 11010. ALLIANCE REGIONAL WATER AUTHORITY

Sets forth standard language for the creation of the authority in Bexar, Caldwell, Comal, Guadalupe, and Hays Counties. Sets forth definitions, standards, procedures, requirements and criteria for:

General provisions, including the nature of the authority, method of public purpose and benefit, territory of the authority, method of adding sponsors, and the liberal construction of the chapter (Sections 11010.001-11010.006);

Size, eligibility, appointment, and terms of the board of directors of the authority, including provisions related to removal of directors, vacancies, voting authority, officers, and meetings and actions of the board (Sections 11010.051-11010.059);

Powers and duties of the authority, including the power of eminent domain (Sections 11010.101-11010.109);

General financial provisions prohibiting ad valorem taxes and authority to accept gifts, grants, and loans (Sections 11010.151-11010.152); and

Authority to issue certain bonds and other obligations (Sections 11010.201-11010.205).

Authorizes the authority to exercise the power of eminent domain to acquire a fee simple or other interest in property if the interest is necessary for the authority to exercise the rights or authority conferred by this chapter. Requires the authority to exercise the right of eminent domain in the manner provided by Chapter 21 (Eminent Domain), Property Code. Exempts the authority from being required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party.

SECTION 3. Requires the agency, on the effective date of this Act, to assume all assets, liabilities, bonds, notes, and other obligations of the agency, all contracts and written agreements of the agency are assigned to and assumed by the authority, and authorizes the authority to refund all or a portion of the bonds, notes, or other obligations issued by the agency in any manner provided by law, including Chapter 1207 (Refunding Bonds), Government Code.

SECTION 4. (a) Requires the sponsors of the authority to appoint the initial directors under Section 11010.053, as added by this Act, not earlier than April 1, 2018, and not later than April 30, 2018. Requires directors of the agency serving on the effective date of this Act to serve as the temporary directors of the authority until the initial directors take office on May 1, 2018.

(b) Requires the initial directors, as soon as practicable after the initial directors have been appointed under Section 11010.053, Special District Local Laws Code, as added by this Act, to draw lots to determine which directors serve a one-year term expiring April 30, 2019, which directors serve a two-year term expiring April 30, 2020, and which directors serve a three-year term expiring April 30, 2021. Requires the lots to be split into thirds or as near to thirds as possible.

(c) Provides that this section expires January 1, 2022.

SECTION 5. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 6. Effective date: upon passage or September 1, 2017.