

## **BILL ANALYSIS**

Senate Research Center  
86R27320 SLB-F

H.B. 4690  
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Water & Rural Affairs  
5/8/2019  
Engrossed

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

Since the creation in 1965 of the Galveston County Water Authority, now the Gulf Coast Water Authority (authority), the authority has seen its capacity and customer base grow significantly. In 2015 the legislature added to the board of directors that manages the authority directors appointed by the commissioners courts of Brazoria County and Fort Bend County. The water needs of the region served by the authority have continued to increase and diversify, and interested parties report a need have the authority's boundaries reflect its service area, clarify the appointment and removal of directors to the board, clarify the role of certain directors appointed to represent agricultural and industrial interests on the board, and to revise certain duties and powers of the authority in order to most effectively represent the authority's customers. H.B. 4690 seeks to address these issues.

H.B. 4690 amends current law relating to the territory, powers, and administration of the Gulf Coast Water Authority.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 2 and 3, Chapter 712, Acts of the 59th Legislature, Regular Session, 1965, as follows:

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

Sec. 3. Requires the authority, except as expressly limited by this Act, to have and exercise and provides that it is hereby vested with all rights, powers, privileges, and authority conferred by the General Laws of this State now in force or hereafter enacted applicable to municipal utility districts created under authority of Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized) of Article XVI, Constitution of Texas including without limitation those conferred by Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code, rather than Chapter 54, Water Code, as amended, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act are required to prevail. Expressly provides that the authority, without in any way limiting the generalization of the foregoing, is required to have, and is hereby authorized to exercise, the following rights, powers, privileges and functions:

(a) the power to make, construct, or otherwise acquire improvements either within or without the boundaries thereof necessary to carry out the powers and authority

granted by this Act and said General Laws and to exercise the power of eminent domain for such purposes; provided, however, that the authority shall not have the power of eminent domain as to all or any part of the water supply, property, works or facilities of any private person or persons, or of any private or public corporation or association engaged in the business of supplying water in Brazoria County, Fort Bend County, or Galveston County, Texas, rather than in Galveston County, Texas, to any class of consumers for any use upon the effective date of this Act, but this provision shall not restrict the power of the District to acquire necessary crossing easements and rights-of-way;

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

(d) subject to the provisions of this Act, to sell, lease, or exchange any property of any kind, or any interest therein, which is not necessary to the carrying on of the business of the authority or the sale, lease, or exchange of which, in the judgment of the board of directors of the authority (board), is necessary for the exercise of the powers, rights, privileges, and functions conferred upon the authority by this Act or by Chapters 49 and 54, Water Code, rather than by this Act or by Chapter 54, Water Code, as amended;

(e) makes a conforming change to this subsection;

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

(l) to make contracts and to execute instruments convenient or necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act or Chapters 49 and 54, Water Code, as amended, rather than to make contracts and to execute instruments necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act or Chapter 54, Water Code, as amended, for certain terms and with certain provisions as the board is authorized to determine to be in the best interest of the authority;

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

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

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

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

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

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

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

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

(b) Provides that the nonprofit corporation has each power of and is considered to be a local government corporation created under Subchapter D (Local Government Corporations), Chapter 431, Transportation Code, and is authorized to implement any project and provide any service authorized by this Act.

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

(d) Prohibits the nonprofit corporation from participating in a project that the authority is not authorized to participate in, imposing taxes, or acquiring, constructing, or operating parks or recreational facilities.

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

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

(f) Requires the powers, rights, privileges, and functions conferred upon the authority to be subject to the continuing rights of supervision by the State, as provided by the Water

Code, as amended, rather than requiring the powers, rights, privileges, and functions conferred upon the authority to be subject to the continuing rights of supervision by the State, which is required to be exercised by the Texas Department of Water Resources, and the authority is required to obtain approval of its projects and they are required to be supervised as provided by Sections 54.516 and 54.517, Water Code, as amended.

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

Sec. 5. (a) Creates this subsection from existing text and makes no further changes to this subsection.

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

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

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

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

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

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

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

(b) Provides that a director who has a financial interest in a contract considered by the authority for the purchase of property or the construction of a facility is required to disclose the interest to the other directors and is prohibited from voting on the contract.

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

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

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

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

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

(b) Authorizes a contract under this section to use money appropriated by a political subdivision that is a party to the contract to pay for pre-development costs, engineering, surveys, and the collection and compilation of data relating to conditions influencing determinations about the character and extent of proposed improvements, works, and facilities for the accomplishment of authority purposes.

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

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

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

Sec. 7. Authorizes certain bonds to be sold for cash, at public or private sale, at such price or prices as the board is required to determine, provided that the net effective interest rate, calculated in accordance with Chapter 1204, Government Code, rather than in accordance with Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, V.T.C.S.), as now or hereafter amended not to exceed 10 percent, or issued on certain terms. Provides that any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract between the authority and the holders thereof from time to time:

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

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

(j) such other provisions, as the board may approve, rather than such other provisions, not inconsistent with the provisions of this Act, as the board may approve.

(k) Creates this subsection from existing text. Authorizes the board to declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the authority or to meet any other needs of the authority and to issue bond anticipation notes or enter into a loan to pay the costs to meet the emergency need, rather than to declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the authority or to meet any other needs of the authority. Authorizes a loan under this

subsection to be secured by a pledge of and made payable from authority revenues or the proceeds of a future series of bonds.

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

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

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

SECTION 7. Provides that all requirements of the constitution and 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 8. Effective date: upon passage or September 1, 2019.