

1-1 By: Zaffirini, Campbell S.B. No. 1198
 1-2 (In the Senate - Filed March 2, 2017; March 9, 2017, read
 1-3 first time and referred to Committee on Agriculture, Water & Rural
 1-4 Affairs; April 6, 2017, reported favorably by the following vote:
 1-5 Yeas 4, Nays 2, 1 present not voting; April 6, 2017, sent to
 1-6 printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12		X		
1-13				X
1-14		X		
1-15	X			

1-16 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to the conversion of the Hays Caldwell Public Utility
 1-19 Agency to the Alliance Regional Water Authority; providing
 1-20 authority to issue bonds; granting the power of eminent domain;
 1-21 providing authority to impose fees.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. (a) The Hays Caldwell Public Utility Agency is
 1-24 converted to a conservation and reclamation district to be known as
 1-25 the Alliance Regional Water Authority located in Bexar, Caldwell,
 1-26 Comal, Guadalupe, and Hays Counties.

1-27 (b) The Alliance Regional Water Authority is not required to
 1-28 hold an election to confirm the creation of the authority.

1-29 SECTION 2. Subtitle X, Title 6, Special District Local Laws
 1-30 Code, is amended by adding Chapter 11010 to read as follows:

1-31 CHAPTER 11010. ALLIANCE REGIONAL WATER AUTHORITY

1-32 SUBCHAPTER A. GENERAL PROVISIONS

1-33 Sec. 11010.001. DEFINITIONS. In this chapter:

1-34 (1) "Authority" means the Alliance Regional Water
 1-35 Authority.

1-36 (2) "Board" means the board of directors of the
 1-37 authority.

1-38 (3) "Director" means a member of the board.

1-39 (4) "District" means any district or authority created
 1-40 under Section 52, Article III, or Section 59, Article XVI, Texas
 1-41 Constitution, regardless of the manner of creation.

1-42 (5) "Local government" means:

1-43 (A) a municipality, county, district, or other
 1-44 political subdivision of this state;

1-45 (B) a local government corporation;

1-46 (C) a nonprofit corporation created to act on
 1-47 behalf of a local government; or

1-48 (D) a combination of two or more of the entities
 1-49 described by this subdivision.

1-50 (6) "Private entity" includes an individual,
 1-51 corporation, organization, business trust, estate, trust,
 1-52 partnership, and association and any other legal entity that is not
 1-53 a governmental body or agency.

1-54 (7) "Sponsor" means:

1-55 (A) the City of Kyle;

1-56 (B) the City of San Marcos;

1-57 (C) the City of Buda;

1-58 (D) the Canyon Regional Water Authority; and

1-59 (E) any other local government or private entity
 1-60 added to the authority as a sponsor under Section 11010.005.

1-61 (8) "Water" includes:

2-1 (A) groundwater, percolating or otherwise,
2-2 notwithstanding the quality of the groundwater;

2-3 (B) any surface water, naturally or artificially
2-4 impounded or in a navigable or nonnavigable watercourse; and

2-5 (C) municipal wastewater or industrial
2-6 wastewater, including municipal wastewater or industrial
2-7 wastewater that has been treated to a quality suitable for reuse for
2-8 a beneficial use.

2-9 Sec. 11010.002. NATURE OF AUTHORITY. The authority is a
2-10 regional water authority in Bexar, Caldwell, Comal, Guadalupe, and
2-11 Hays Counties created under and essential to accomplish the
2-12 purposes of Section 59, Article XVI, Texas Constitution.

2-13 Sec. 11010.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

2-14 (a) The authority is created to serve a public use and benefit.

2-15 (b) All land and other property included in the territory of
2-16 the authority will benefit from the works and projects to be
2-17 accomplished by the authority under powers conferred by Section 59,
2-18 Article XVI, Texas Constitution, and powers granted under this
2-19 chapter.

2-20 Sec. 11010.004. AUTHORITY TERRITORY. (a) The authority is
2-21 composed of the territory:

2-22 (1) of the sponsors, including territory within the
2-23 municipal boundaries of a sponsor that is a municipality;

2-24 (2) located in the service areas of the sponsors as
2-25 provided by the sponsors' respective certificates of convenience
2-26 and necessity; and

2-27 (3) added to and not excluded from the authority in
2-28 accordance with applicable law.

2-29 (b) Territory added to the authority may be in a county
2-30 other than a county listed in Section 11010.002.

2-31 Sec. 11010.005. METHOD OF ADDING SPONSORS. (a) The
2-32 governing body of a local government or a private entity, including
2-33 a water supply corporation, may petition the board to add that local
2-34 government or private entity as a sponsor.

2-35 (b) A petition under Subsection (a) must be submitted in the
2-36 manner and form required by board rule.

2-37 (c) On receipt of a petition under Subsection (a), the board
2-38 shall set a hearing on the petition and provide notice of the date,
2-39 time, place, and purpose of the hearing to:

2-40 (1) the sponsors of the authority; and

2-41 (2) the petitioning local government or private
2-42 entity.

2-43 (d) At the hearing, the board shall make a determination on
2-44 whether:

2-45 (1) the local government or private entity will
2-46 benefit from being added to the authority as a sponsor; and

2-47 (2) it is in the best interest of the authority to add
2-48 the local government or private entity to the authority as a
2-49 sponsor.

2-50 (e) If, after a hearing on the petition, the board decides
2-51 that the local government or private entity should be added to the
2-52 authority as a sponsor, the board shall issue an order:

2-53 (1) adding the local government or private entity to
2-54 the authority;

2-55 (2) adding the local government's or private entity's
2-56 territory or service area to the territory of the authority; and

2-57 (3) making the local government's or private entity's
2-58 territory or service area subject to the privileges, duties,
2-59 assets, and financial obligations of the authority to the same
2-60 degree as other sponsors already included in the authority.

2-61 (f) After the addition of a sponsor to the authority, the
2-62 board shall adopt rules that reapportion the directors of the
2-63 authority among the sponsors in accordance with the rules adopted
2-64 under Section 11010.051(c)(2) and may increase or decrease the
2-65 number of directors on the board within the range provided by
2-66 Section 11010.051(a).

2-67 Sec. 11010.006. LIBERAL CONSTRUCTION OF CHAPTER. This
2-68 chapter shall be liberally construed to effect its purposes.

3-1 SUBCHAPTER B. BOARD OF DIRECTORS

3-2 Sec. 11010.051. DIRECTORS. (a) The authority is governed
3-3 by a board of directors consisting of at least 7 and not more than 17
3-4 members.

3-5 (b) The board is responsible for the management, operation,
3-6 and control of the authority.

3-7 (c) The board shall adopt rules that:

3-8 (1) establish the number of directors of the
3-9 authority; and

3-10 (2) determine the apportionment of directors for each
3-11 sponsor based on the amount of water contracted to be supplied to
3-12 the sponsor under the terms of the authority's water supply
3-13 contract with the sponsor.

3-14 Sec. 11010.052. ELIGIBILITY TO SERVE AS DIRECTOR. (a) To
3-15 be eligible to serve as a director, a person must be:

3-16 (1) at least 18 years of age; and

3-17 (2) a resident of the territory located in the
3-18 authority or an employee of a sponsor.

3-19 (b) A director who also serves on the governing body of a
3-20 sponsor is not a dual officeholder and is not prohibited by the
3-21 common law doctrine of incompatibility from serving on both the
3-22 board and the governing body.

3-23 (c) Service on the board by a public officeholder is an
3-24 additional duty of that person's office.

3-25 Sec. 11010.053. APPOINTMENT OF DIRECTORS. (a) Each
3-26 sponsor is entitled to appoint at least one director.

3-27 (b) Each director must be appointed by the governing body of
3-28 a sponsor in accordance with the rules adopted under Section
3-29 11010.051 that govern the apportionment of directors among the
3-30 sponsors.

3-31 (c) Directors must be appointed not earlier than April 1 and
3-32 not later than April 30 of each year.

3-33 Sec. 11010.054. TERMS OF OFFICE. (a) Directors serve
3-34 staggered three-year terms, with one-third or as near as possible
3-35 to one-third of the members' terms expiring April 30 of each year.

3-36 (b) A director's term begins on May 1 of the year the
3-37 director is appointed.

3-38 (c) A director may not serve more than five consecutive
3-39 terms as a director.

3-40 Sec. 11010.055. REMOVAL OF DIRECTOR. A sponsor that
3-41 appoints a director may remove the director from office at any time,
3-42 with or without cause.

3-43 Sec. 11010.056. BOARD VACANCY. If there is a vacancy on the
3-44 board, the governing body of the sponsor that appointed the
3-45 director who vacated the office shall appoint a director to serve
3-46 the remainder of the term.

3-47 Sec. 11010.057. VOTING AUTHORITY. Each director is
3-48 entitled to one vote on any issue before the board.

3-49 Sec. 11010.058. OFFICERS. At the first meeting of the board
3-50 after May 1 of each year, the board shall elect officers for the
3-51 authority, including a chair, vice chair, secretary, and treasurer.

3-52 Sec. 11010.059. MEETINGS AND ACTIONS OF BOARD; QUORUM.
3-53 (a) The board may meet as many times each year as the board
3-54 considers appropriate.

3-55 (b) A majority of the membership of the board constitutes a
3-56 quorum at a meeting of the board.

3-57 (c) A concurrence of a majority of the directors present and
3-58 voting is sufficient for transacting any business of the authority
3-59 unless other applicable law, or the authority by rule, requires a
3-60 concurrence of a greater number of directors for a specific type of
3-61 decision.

3-62 (d) Directors of the authority are public officials and are
3-63 entitled to governmental immunity for their actions in their
3-64 capacity as directors and officers of the authority.

3-65 SUBCHAPTER C. POWERS AND DUTIES

3-66 Sec. 11010.101. GENERAL POWERS AND DUTIES. (a) The
3-67 authority may:

3-68 (1) acquire, purchase, own, hold, lease, construct,
3-69 improve, and maintain a reservoir, groundwater well, or other

4-1 source of water supply, including:
4-2 (A) groundwater, surface water, and wastewater
4-3 reused directly or indirectly; and
4-4 (B) aquifer storage and recovery facilities;
4-5 (2) acquire, own, construct, operate, repair,
4-6 improve, maintain, or extend, inside or outside the authority's
4-7 boundaries, water and wastewater works, improvements, facilities,
4-8 plants, pipelines, equipment, and appliances for:
4-9 (A) the treatment and transportation of water and
4-10 wastewater;
4-11 (B) the direct or indirect reuse of wastewater;
4-12 (C) aquifer storage and recovery projects; and
4-13 (D) the provision of wholesale water and
4-14 wastewater services to authority customers, municipalities,
4-15 districts, water supply corporations, and other persons in this
4-16 state;
4-17 (3) acquire, purchase, own, hold, lease, and maintain
4-18 interests, including capacity rights and other contractual rights,
4-19 in sources of water supply, reservoirs, groundwater wells, water
4-20 and wastewater systems, treatment works, improvements, facilities,
4-21 plants, equipment, appliances, aquifer storage and recovery
4-22 projects, and the direct or indirect reuse of wastewater;
4-23 (4) finance any purchase or acquisition through a
4-24 bond, note, or other obligation under Subchapter E, or through a
4-25 lease-purchase agreement; and
4-26 (5) sell, lease, convey, or otherwise dispose of any
4-27 right, interest, or property the authority considers to be
4-28 unnecessary for the efficient operation or maintenance of the
4-29 authority's facilities.
4-30 (b) In addition to the powers specifically provided by this
4-31 chapter, the authority may exercise the powers provided by Section
4-32 65.201, Water Code.
4-33 Sec. 11010.102. AUTHORITY POLICIES, RULES, AND BYLAWS. The
4-34 authority may adopt and enforce policies, rules, and bylaws
4-35 reasonably required to implement this chapter, including rules
4-36 governing procedures before the board and rules regarding
4-37 implementation, enforcement, and any other matters related to the
4-38 exercise of the rights, powers, privileges, and functions conferred
4-39 on the authority by this chapter for the provision of water and
4-40 wastewater service.
4-41 Sec. 11010.103. EMINENT DOMAIN. (a) The authority may
4-42 exercise the power of eminent domain to acquire a fee simple or
4-43 other interest in property if the interest is necessary for the
4-44 authority to exercise the rights or authority conferred by this
4-45 chapter.
4-46 (b) The authority shall exercise the right of eminent domain
4-47 in the manner provided by Chapter 21, Property Code. The authority
4-48 is not required to give bond for appeal or bond for costs in a
4-49 condemnation suit or other suit to which it is a party.
4-50 (c) The authority may not use the power of eminent domain
4-51 for the condemnation of land for the purpose of acquiring rights to
4-52 groundwater or for the purpose of acquiring water or water rights.
4-53 Sec. 11010.104. WATER CONSERVATION OR DROUGHT CONTINGENCY
4-54 PLANS. The authority by rule may develop, prepare, revise, adopt,
4-55 implement, enforce, and manage water conservation or drought
4-56 contingency plans for the authority or any portion of the
4-57 authority.
4-58 Sec. 11010.105. SERVICE OUTSIDE AUTHORITY. The authority
4-59 may contract to provide the authority's services outside the
4-60 boundaries of the authority.
4-61 Sec. 11010.106. SPONSOR CONVEYANCES AND ACQUISITIONS.
4-62 (a) In this section, "utility system" has the meaning assigned by
4-63 Section 1502.001, Government Code.
4-64 (b) A sponsor may convey a utility system facility or asset
4-65 or the sponsor's interest in a utility system facility or asset to
4-66 the authority without holding an election to approve the
4-67 conveyance.
4-68 (c) A sponsor is exempt from the provisions of Chapter 1502,
4-69 Government Code, regarding the conveyance, sale, or acquisition of

5-1 a utility system, or any related works, improvements, facilities,
5-2 plants, equipment, or appliances.
5-3 Sec. 11010.107. CONTRACTS. (a) The authority may contract
5-4 with any person to carry out a power authorized by this chapter.
5-5 (b) A person who enters into a contract with the authority
5-6 may pledge to the payment of the contract any source of revenue that
5-7 may be available to the person, including ad valorem taxes, if the
5-8 person has the authority to impose those taxes.
5-9 (c) Payments made under a contract with the authority
5-10 constitute an operating expense of the person served under the
5-11 contract, unless otherwise prohibited by a previously outstanding
5-12 obligation of the person. To the extent a person pledges funds to
5-13 the payment of the contract that are to be derived from the person's
5-14 own water system, the payments constitute an operating expense of
5-15 that system.
5-16 Sec. 11010.108. COOPERATIVE CONTRACTS. The authority may
5-17 enter into an interlocal contract with a local government under
5-18 Chapter 791, Government Code, to carry out a power of the authority.
5-19 Sec. 11010.109. RATES AND FEES. (a) The authority shall
5-20 establish rates and fees to be assessed against sponsors and
5-21 customers of the authority. The rates and fees may be established
5-22 by classes of customers, by project, or by area of service.
5-23 (b) A sponsor, local government, water supply corporation,
5-24 private entity, or other person that contracts with the authority
5-25 shall establish, charge, and collect fees, rates, charges, rentals,
5-26 and other amounts for any service or facility provided under or in
5-27 connection with a contract with the authority and shall pledge
5-28 sufficient amounts to make all payments required under the
5-29 contract.
5-30 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS
5-31 Sec. 11010.151. AD VALOREM TAXES PROHIBITED. The authority
5-32 may not impose an ad valorem tax.
5-33 Sec. 11010.152. GIFTS, GRANTS, LOANS, AND OTHER FUNDS. The
5-34 authority may apply for, accept, receive, and administer gifts,
5-35 grants, loans, and other funds available from any source.
5-36 SUBCHAPTER E. BONDS, NOTES, AND OTHER OBLIGATIONS
5-37 Sec. 11010.201. REVENUE BONDS, NOTES, AND OTHER
5-38 OBLIGATIONS. (a) In addition to bonds, notes, and other
5-39 obligations that the authority is authorized to issue under other
5-40 law, to accomplish the purposes of the authority, the authority may
5-41 issue bonds, notes, or other obligations payable solely from and
5-42 secured by all or part of any funds or any revenue from any source or
5-43 sources, including:
5-44 (1) fees, rates, and other charges the authority
5-45 imposes or collects;
5-46 (2) the sale of:
5-47 (A) water;
5-48 (B) water or wastewater services;
5-49 (C) water rights or capacity;
5-50 (D) water transmission rights, capacity, or
5-51 services;
5-52 (E) water pumping;
5-53 (F) wastewater reused directly or indirectly;
5-54 (G) aquifer storage and recovery services;
5-55 (H) sewer services; or
5-56 (I) any other service or product of the authority
5-57 provided inside or outside the boundaries of the authority;
5-58 (3) grants or gifts;
5-59 (4) the ownership or operation of all or a designated
5-60 part of the authority's works, improvements, facilities, plants, or
5-61 equipment; and
5-62 (5) the proceeds of contracts.
5-63 (b) Bonds, notes, or other obligations issued by the
5-64 authority may be first or subordinate lien obligations at the
5-65 board's discretion.
5-66 (c) In connection with any bonds, notes, or other
5-67 obligations of the authority, the authority may exercise any power
5-68 of an issuer under Chapter 1371, Government Code.
5-69 (d) The authority may conduct a public, private, or

6-1 negotiated sale of the bonds, notes, or other obligations.
 6-2 (e) The authority may enter into one or more indentures of
 6-3 trust to further secure its bonds, notes, or other obligations.
 6-4 (f) The authority may issue bonds, notes, or other
 6-5 obligations in more than one series as necessary to carry out the
 6-6 purposes of this chapter. In issuing bonds, notes, or other
 6-7 obligations secured by revenue of the authority, the authority may
 6-8 reserve the right to issue additional bonds, notes, or other
 6-9 obligations secured by the authority's revenue that are on parity
 6-10 with or are senior or subordinate to the bonds, notes, or other
 6-11 obligations issued earlier.
 6-12 (g) A resolution of the board or a trust indenture securing
 6-13 the bonds, notes, or other obligations may specify additional
 6-14 provisions that constitute a contract between the authority and the
 6-15 authority's bondholders, noteholders, or other obligation holders.
 6-16 (h) Bonds, notes, or other obligations may be additionally
 6-17 secured by deed of trust or mortgage on any or all of the
 6-18 authority's facilities.
 6-19 (i) Bonds, notes, or other obligations issued by the
 6-20 authority are not subject to approval by the Texas Commission on
 6-21 Environmental Quality, and commission rules regarding bonds,
 6-22 notes, or other obligations do not apply to bonds, notes, or other
 6-23 obligations issued by the authority.
 6-24 (j) The authority provided by this chapter for the
 6-25 authorization and issuance of bonds, notes, and other obligations
 6-26 is in addition to, and not in lieu of, the authority otherwise
 6-27 established under general law and may not be construed as a
 6-28 limitation on, or a modification of, general law providing for
 6-29 authorization and issuance of bonds, notes, and other forms of
 6-30 obligations. Nothing in this chapter may be construed as affecting
 6-31 any existing contract, bond, note, or other obligation of the
 6-32 authority or any indenture, covenant, mortgage, or other agreement
 6-33 relating to them.
 6-34 Sec. 11010.202. ELECTION NOT REQUIRED. The authority is
 6-35 not required to hold an election to approve the issuance of revenue
 6-36 bonds or notes or of other obligations under this subchapter.
 6-37 Sec. 11010.203. USE OF REVENUE AND GROWTH PROJECTIONS. For
 6-38 the purposes of attorney general review and approval and in lieu of
 6-39 any other manner of demonstrating the ability to pay debt service
 6-40 and satisfy any other pecuniary obligations relating to bonds,
 6-41 notes, or other obligations, the authority may demonstrate the
 6-42 authority's ability to satisfy the debt service and those
 6-43 obligations using accumulated funds of the authority and revenue
 6-44 and growth projections prepared by a professional utility rate
 6-45 consultant at the direction of the authority. If the resolution
 6-46 authorizing the issuance of the bonds, notes, or other obligations
 6-47 provides that the authority intends to increase rates to the extent
 6-48 necessary to pay debt service and satisfy any other pecuniary
 6-49 obligations arising under the bonds, notes, or other obligations,
 6-50 the revenue projections prepared by a professional utility rate
 6-51 consultant may include forecast rate increases and accumulated and
 6-52 available fund balances as determined by the authority.
 6-53 Sec. 11010.204. REFUNDING BONDS. The authority may issue
 6-54 refunding bonds, notes, and other obligations to refund any of its
 6-55 bonds, notes, or other obligations in any manner provided by law,
 6-56 including Chapter 1207, Government Code.
 6-57 Sec. 11010.205. BONDS, NOTES, AND OTHER OBLIGATIONS EXEMPT
 6-58 FROM TAXATION. A bond, note, or other obligation issued under this
 6-59 chapter, a transaction related to the bond, note, or other
 6-60 obligation, the interest on the bond, note, or other obligation,
 6-61 and the profit from the sale of the bond, note, or other obligation
 6-62 are exempt from taxation by this state or a political subdivision of
 6-63 this state.
 6-64 SECTION 3. On the effective date of this Act:
 6-65 (1) the Alliance Regional Water Authority shall assume
 6-66 all assets, liabilities, bonds, notes, and other obligations of the
 6-67 Hays Caldwell Public Utility Agency;
 6-68 (2) all contracts and written agreements of the Hays
 6-69 Caldwell Public Utility Agency are assigned to and assumed by the

7-1 Alliance Regional Water Authority; and
7-2 (3) the Alliance Regional Water Authority may refund
7-3 all or a portion of the bonds, notes, or other obligations issued by
7-4 the Hays Caldwell Public Utility Agency in any manner provided by
7-5 law, including Chapter 1207, Government Code.

7-6 SECTION 4. (a) The sponsors of the Alliance Regional Water
7-7 Authority shall appoint the initial directors under Section
7-8 11010.053, Special District Local Laws Code, as added by this Act,
7-9 not earlier than April 1, 2018, and not later than April 30, 2018.
7-10 Directors of the Hays Caldwell Public Utility Agency serving on the
7-11 effective date of this Act shall serve as the temporary directors of
7-12 the Alliance Regional Water Authority until the initial directors
7-13 take office on May 1, 2018.

7-14 (b) As soon as practicable after the initial directors have
7-15 been appointed under Section 11010.053, Special District Local Laws
7-16 Code, as added by this Act, the initial directors shall draw lots to
7-17 determine which directors serve a one-year term expiring April 30,
7-18 2019, which directors serve a two-year term expiring April 30,
7-19 2020, and which directors serve a three-year term expiring April
7-20 30, 2021. The lots must be split into thirds or as near to thirds as
7-21 possible.

7-22 (c) This section expires January 1, 2022.

7-23 SECTION 5. (a) The legal notice of the intention to
7-24 introduce this Act, setting forth the general substance of this
7-25 Act, has been published as provided by law, and the notice and a
7-26 copy of this Act have been furnished to all persons, agencies,
7-27 officials, or entities to which they are required to be furnished
7-28 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
7-29 Government Code.

7-30 (b) The governor, one of the required recipients, has
7-31 submitted the notice and Act to the Texas Commission on
7-32 Environmental Quality.

7-33 (c) The Texas Commission on Environmental Quality has filed
7-34 its recommendations relating to this Act with the governor, the
7-35 lieutenant governor, and the speaker of the house of
7-36 representatives within the required time.

7-37 (d) All requirements of the constitution and laws of this
7-38 state and the rules and procedures of the legislature with respect
7-39 to the notice, introduction, and passage of this Act are fulfilled
7-40 and accomplished.

7-41 SECTION 6. This Act takes effect immediately if it receives
7-42 a vote of two-thirds of all the members elected to each house, as
7-43 provided by Section 39, Article III, Texas Constitution. If this
7-44 Act does not receive the vote necessary for immediate effect, this
7-45 Act takes effect September 1, 2017.

7-46 * * * * *