LOCAL GOVERNMENT CODE

TITLE 13. WATER AND UTILITIES

SUBTITLE B. COUNTY WATER

CHAPTER 562. COUNTY WATER SUPPLY

SUBCHAPTER A. SALE OF SURPLUS WATER

Sec. 562.001. DEFINITION. In this subchapter, "county surplus water" means water that a county has acquired from an underground source for the county's water supply and that is not needed for county purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 412.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.002. SALE OF SURPLUS WATER; USE OF PROCEEDS. (a) The commissioners court of a county may sell and deliver county surplus water to:

(1) a public corporation of this state; or

(2) a political subdivision of this state, including a municipality, water control and improvement district, or fresh water supply district.

(b) A county shall credit money received from the sale of county surplus water to the general fund of the county and may spend the money for general county purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 412.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.003. ESTABLISHMENT OF RATE. The commissioners court may determine the rate at which county surplus water is sold.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 412.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.004. TERM OF CONTRACT. A contract to sell county surplus water may not exceed a term of 40 years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 412.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.005. USE OR RESALE. A buyer of county surplus water may use or resell the water for any lawful purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 412.005 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

SUBCHAPTER B. WATER SUPPLY AND SEWAGE

Sec. 562.011. MATAGORDA COUNTY. (a) The Commissioners Court of Matagorda County may acquire, construct, or operate a water supply system or sewage system to serve areas of the county located outside the limits of a municipality.

(b) The county may enter a management or lease agreement with another public or private entity for the operation of a county water or sewage system acquired or constructed under this section.

(c) The county may apply for and receive grants or other assistance from a state or federal governmental entity to implement the purposes of this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 412.011 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.012. CONTRACT FOR WATER SUPPLY AND SEWER SYSTEM IN POPULOUS COUNTY. (a) The commissioners court of a county that has a population of more than 1.3 million and in which a municipality with a population of more than one million is primarily located may enter a contract with a district created under Article III,

Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution under which the district will provide and operate a water supply system or sewage system in areas of the county located outside the limits of a municipality.

(b) The commissioners court may distribute federal funds and state water conservation and development funds received by the county to a district that is a party to a contract under this section. Those funds may be used only for the construction, renovation, or maintenance of a water supply system or sewage system that is covered by a contract under this section.

(c) The acts performed and services provided under this section by a district must be within the scope of the powers, duties, and purposes of the district as provided by the laws under which the district was created.

(d) A contract that affects a municipality's extraterritorial jurisdiction as established by Chapter 42 must be submitted to and approved by the municipality.

(e) If a contract under this section affects an area not located within the limits of the contracting district, district funds may not be used to fulfill the contract.

(f) A county and a district that contract under this section must submit the contract to the Texas Natural Resource Conservation Commission for approval. The commission shall examine the contract to assure that the interests of the residents of the district are served and protected. A county may not enter a contract that the commission determines would jeopardize the quality of service provided by a district to the persons residing in the district. The commission may submit suggested changes to the parties for inclusion in the contract before the commission gives its approval.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 104, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.260, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 669, Sec. 109, 110, eff. Sept. 1, 2001.

Renumbered from Local Government Code, Section 412.012 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.013. WATER NEEDS OF CERTAIN COUNTIES WITH RIVER. (a) In a county with a river that flows through it or forms part of its boundary, the commissioners court of the county may, on voter approval, make expenditures from the general fund, or any other available county fund, to conduct an investigation and assemble information relating to the present and future water needs of the county inhabitants and to the feasibility of developing the water resources of the river for uses in the county.

(b) To obtain the voter approval required by Subsection (a), the commissioners court must order an election at which each qualified voter of the county is entitled to vote. The court shall determine the maximum cost of the proposed investigation and shall order the ballots for the election to be printed to provide for voting for or against the proposition: "Spending county funds for the purpose of making a survey of water resources, in an amount not to exceed $_____ (the maximum amount determined by the court)."

(c) If a majority of the ballots cast at the election are in favor of the expenditure, the commissioners court may contract for professional services and incur other necessary expenses in an amount not to exceed the maximum amount fixed for this purpose. If a majority of the ballots cast are opposed to the expenditure, the commissioners court may not spend funds for this purpose, and another election on the proposition may not be held for two years.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 412.013 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.014. ACQUISITION OF PROPERTY FOR WATER SUPPLY OR TRANSPORT OF WATER. (a) The commissioners court of a county may acquire by purchase, gift, lease, or any other method, except condemnation, any property or an interest in property inside or outside the county that the commissioners court finds necessary to obtain a surface water supply or to transport and deliver surface water.

(b) If the property being acquired is located outside the county, the commissioners court of the county or counties where the

property is located shall hold a public hearing and acquisition must be approved by the commissioners court at a regular meeting of the court.

(c) The commissioners court may contract with any political subdivision of the state for the management and operation of all or part of the property or interests in property and for the beneficial use of the surface water. A contract may be made on terms the commissioners court considers appropriate but may not be for a term of more than 40 years.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 84(a), eff. Aug. 28, 1989.

Renumbered from Local Government Code, Section 412.014 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Sec. 562.015. COUNTY WATER AND SEWER UTILITY. An affected county, as defined by Section 16.341, Water Code, may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 552.

Added by Acts 1995, 74th Leg., ch. 979, Sec. 5, eff. June 16, 1995.

Renumbered from Local Government Code, Section 412.015 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(14), eff. April 1, 2009.

Sec. 562.016. COUNTY WATER AND SEWER SYSTEM. (a) A county may acquire, own, finance, operate, or contract for the operation of, a water or sewer utility system to serve an unincorporated area of the county in the same manner and under the same regulations as a municipality under Chapter 552. The county must comply with all provisions of Chapter 13, Water Code, that apply to a municipality. However, a county with a population of 2.5 million or more and any adjoining county may, with the municipality's approval, serve an area within a municipality.

(b) To finance the water or sewer utility system, a county

may issue bonds payable solely from the revenue generated by the water or sewer utility system. A bond issued under this section is not a debt of the county but is only a charge on the revenues pledged and is not considered in determining the ability of the county to issue bonds for any other purpose authorized by law. This subsection does not authorize the issuance of general obligation bonds payable from ad valorem taxes to finance a water or sewer utility system. However, a county with a population of 2.5 million or more and any adjoining county may issue general obligation bonds with the approval of qualified voters.

(c) A county may acquire any interest in property necessary to operate a system authorized by this section through any means available to the county, including eminent domain. A county may not use eminent domain under this subsection to acquire property in a municipality. Provided, however, a county with a population of 2.5 million or more and any adjoining county may, with the municipality's approval, use the power of eminent domain under this subsection to acquire property within a municipality.

Added by Acts 1999, 76th Leg., ch. 191, Sec. 1, eff. May 24, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 549 (S.B. 1271), Sec. 1, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 858 (H.B. 1314), Sec. 1, eff. June 15, 2007.

Renumbered from Local Government Code, Section 412.016 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(15), eff. April 1, 2009.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 200, eff. September 1, 2023.

Sec. 562.017. REGULATION OF WATER AND SEWER UTILITY IN POPULOUS COUNTIES. (a) In this section, "water or sewer utility system" means a water or sewer utility system that serves:

(1) an economically distressed area as defined by

Section 15.001, Water Code; or

(2) an area listed on:

(A) the state registry by the Texas Commission on Environmental Quality under Subchapter F, Chapter 361, Health and Safety Code; or

(B) the National Priorities List by the federal Environmental Protection Agency under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601-9675, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(b) A county with a population of 3.3 million or more may by order:

(1) prohibit a person from installing an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code, or installing a water well, if the lot or parcel of land on which the on-site sewage disposal system or water well is to be installed has access to service from a water or sewer system; and

(2) prohibit a person from installing another water or sewer utility system to serve a lot or parcel of land within the area if the lot or parcel of land has access to service from a water or sewer utility system.

(c) A county that adopts an order under Subsection (b) may adopt the order only if the area that has access to service from a water or sewer utility system:

(1) is not served by another legally operating water or sewer utility system at the time the order is adopted; and

(2) was developed before September 1, 1987.

(d) A person who violates an order adopted under this section is liable to the county for a civil penalty of not more than $1,000 for each violation. Each day a violation continues is a separate violation for purposes of assessing the civil penalty.

(e) A county may bring suit in a district court to restrain a violation or threatened violation of an order adopted under this section, recover a civil penalty, or both. The county is not required to give bond as a condition to issuing injunctive relief.

(f) Except as provided in Subsection (g), a county that is involved in selecting a water or sewer utility system and that

adopts an order under Subsection (b) may adopt the order only if the county complies with Chapter 262 in selecting the water or sewer utility system.

(g) Section 262.024 does not apply to this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 858 (H.B. 1314), Sec. 2, eff. June 15, 2007.

Transferred from Local Government Code, Section 412.017 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(69), eff. September 1, 2009.

Sec. 562.018. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN BORDER COUNTIES. (a) This section applies only to a county:

(1) that is located adjacent to an international border; and

(2) in which a military installation and a national recreation area are located.

(b) The commissioners court of a county to which this section applies may acquire, construct, or operate a water supply system or a sewage system to serve unincorporated areas of the county.

(c) The county may enter a management or lease agreement with another public or private entity for the operation of a county water or sewage system acquired or constructed under this section.

(d) The county may apply for and receive grants or other assistance from a state or federal governmental entity to implement this section.

(e) The county may own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402.

(f) A county may not construct, operate, or maintain a water supply system or sewage system in an area previously served by the county's water supply or sewage system after the area is annexed by a municipality and the municipality begins providing to the area water or sewer services previously provided by the county.

(g) This section does not authorize a county to sell water for a purpose other than for local use.

Added by Acts 2007, 80th Leg., R.S., Ch. 1104 (H.B. 3475), Sec. 1,

eff. September 1, 2007.

Transferred from Local Government Code, Section 412.017 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(70), eff. September 1, 2009.