LOCAL GOVERNMENT CODE

TITLE 13. WATER AND UTILITIES

SUBTITLE A. MUNICIPAL WATER AND UTILITIES

CHAPTER 552. MUNICIPAL UTILITIES

SUBCHAPTER A. PUBLIC UTILITY SYSTEMS IN GENERAL

Sec. 552.001. MUNICIPAL UTILITY SYSTEMS; GENERAL POWERS. (a) In this section, "utility system" means a water, sewer, gas, or electricity system.

(b) A municipality may purchase, construct, or operate a utility system inside or outside the municipal boundaries and may regulate the system in a manner that protects the interests of the municipality. The municipality may own land inside or outside its boundaries for these purposes.

(c) A municipality may extend the lines of its utility systems outside the municipal boundaries and may sell water, sewer, gas, or electric service to any person outside its boundaries. The municipality may contract with persons outside its boundaries to permit them to connect with those utility systems on terms the municipality considers to be in its best interest. This subsection does not authorize the extension of electric lines into the corporate limits of another municipality.

(d) A municipality that owns or operates a utility system may prescribe the kind of water or gas mains, sewer pipes, and electric appliances that may be used inside or outside the municipality. The municipality may inspect those facilities and appliances, require that they be kept in good condition at all times, and prescribe the necessary rules, which may include penalties, concerning them.

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

Renumbered from Local Government Code, Section 402.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.002. CERTAIN PUBLIC SERVICES AND UTILITY SYSTEMS IN HOME-RULE MUNICIPALITY. (a) In this section, "public service"

includes a public telephone system, street railway system, fertilizing plant, slaughterhouse, municipal railway terminal, dock, wharf, ferry, ferry landing, or shipping facility, including loading and unloading devices.

(b) A home-rule municipality may buy, own, construct inside or outside the municipal limits, and maintain and operate a gas system, electric lighting plant, sewage plant, or other public service or public utility and may require and receive compensation for services furnished for private purposes or otherwise. The municipality may use eminent domain authority to appropriate real property, rights-of-way, or other property as necessary to efficiently carry out those objects. The municipality may condemn the property of any person that conducts such a business or utility service for the purpose of operating and maintaining the public service or public utility and distributing the utility services in the municipality. In its charter, the municipality may adopt rules it considers advisable for the acquisition or operation of the public service or public utility.

(c) The municipality may manufacture its own electricity, gas, or anything else needed or used by the public. It may purchase, and make contracts for the purchase of, gas, electricity, oil, or any other commodity or article used by the public and may sell it to the public on terms as provided by the municipal charter, ordinance, or resolution of the governing body of the municipally owned utility.

(d) The municipality may require water works corporations, gas companies, street car companies, telephone companies, telegraph companies, electric companies, or other persons who hold a franchise from the municipality to extend their services to territory as required by the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 405, Sec. 44, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 402.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.0025. CONNECTION, DISCONNECTION, AND LIABILITY

FOR MUNICIPAL UTILITY SERVICES. (a) A municipality may not require a customer to pay for utility service previously furnished to another customer at the same service connection as a condition of connecting or continuing service.

(b) A municipality may not require a customer's utility bill to be guaranteed by a third party as a condition of connecting or continuing service.

(c) A municipality may require varying utility deposits for customers as it deems appropriate in each case.

(d) Except as provided in Subsections (e) and (f), a municipality may by ordinance impose a lien against an owner's property, unless it is a homestead as protected by the Texas Constitution, for delinquent bills for municipal utility service to the property.

(e) The municipality's lien shall not apply to bills for service connected in a tenant's name after notice by the property owner to the municipality that the property is rental property.

(f) The municipality's lien shall not apply to bills for service connected in a tenant's name prior to the effective date of the ordinance imposing the lien. This subsection shall not apply to ordinances adopted prior to the effective date of this Act.

(g) The municipality's lien shall be perfected by recording in the real property records of the county where the property is located a notice of lien containing a legal description of the property and the utility's account number for the delinquent charges. The municipality's lien may include penalties, interest, and collection costs.

(h) The municipality's lien is inferior to a bona fide mortgage lien that is recorded before the recording of the municipality's lien in the real property records of the county where the property is located. The municipality's lien is superior to all other liens, including previously recorded judgment liens and any liens recorded after the municipality's lien.

Added by Acts 1989, 71st Leg., ch. 304, Sec. 1, eff. Aug. 28, 1989.

Renumbered from Local Government Code, Section 402.0025 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.003. ACQUISITION OF EXISTING PUBLIC UTILITY; PAYMENT IN LIEU OF SCHOOL TAXES. (a) If, after May 8, 1943, a municipality acquires an existing public utility, the property of which is subject to taxation by a school district, and the municipality finances the purchase of the utility by issuing revenue bonds, the governing body of the municipality may expressly provide, in an indenture of trust, mortgage, or other lien instrument that evidences the obligation of the municipality for the purchase price, for an annual payment from the income of the utility of an amount equal to the average annual taxes assessed by the school district on the properties of the utility for the five years preceding the year in which the utility is acquired.

(b) The school board trustees and the governing body of the municipality may agree on an annual payment of a sum in lieu of school taxes. The sum must be adequate and just under the circumstances of the case considering the school district's needs.

(c) The obligation of the municipality to make the payment in lieu of taxes is a proper item of municipal operating expenses that, with other operating expenses, is a first lien and charge against the income of the encumbered utility.

(d) The obligation of the municipality to make the payment in lieu of taxes as provided in the encumbrance agreement is an "expense or obligation" of the utility system as that term is used in statutes authorizing the acquisition of a public utility and the issuance of revenue bonds for the purchase of the utility. The obligation extends to and binds any municipality that purchases or otherwise acquires an existing public utility in accordance with the terms of the encumbrance agreement or mutual agreements as authorized under Subsections (a) and (b).

(e) The obligation of the municipality as fixed in the indenture or encumbrance is not impaired, affected, modified, or released by the release or discharge of the encumbrance, and, as long as the municipality owns and operates the public utility, it shall continue to pay to the school district on an annual basis from the revenues of the utility an amount equal to the average annual taxes assessed in behalf of the school district on the properties of

the utility for the five years preceding the year in which the utility is acquired by the municipality. Alternatively, after the release or discharge of the encumbrance, the school board trustees and the governing body of the municipality may agree to provide for a payment in lieu of school taxes as provided by Subsection (b).

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

Renumbered from Local Government Code, Section 402.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER B. ACQUISITION OF INTERESTS FOR DRAINAGE, SEWAGE, OR WATER SUPPLY PURPOSES

Sec. 552.011. USE OF EMINENT DOMAIN POWER. A municipality that owns its water system may exercise the power of eminent domain to condemn private property located inside or outside the municipal limits to acquire rights-of-way for digging or excavating canals or for laying water mains or other pipelines to bring water into the municipality for public use.

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

Renumbered from Local Government Code, Section 402.011 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.012. MUNICIPALITIES IN OR CONTRACTING WITH A WATER DISTRICT. (a) In this section, "water district" means a municipal water authority or other district created under Article XVI, Section 59, of the Texas Constitution.

(b) This section applies to a municipality that is located in a water district or that has a contract with a water district for a supply of untreated water. This section is cumulative of municipal charter provisions relating to the same subject but takes precedence over a municipal charter provision to the extent of any conflict.

(c) The municipality, acting alone or with one or more other municipalities to which this section applies, may:

(1) receive or acquire by gift, dedication, purchase,

or condemnation any property in this state, located inside or outside the municipal boundaries, to build or acquire:

(A) water purification and treatment facilities;

(B) reservoirs; or

(C) pipelines and any type of water transportation facilities considered necessary to provide the municipality or municipalities with fresh water for municipal, domestic, and industrial purposes; and

(2) construct or otherwise acquire any facility described by Subdivision (1).

(d) Chapter 21, Property Code, applies to a condemnation proceeding brought under this section.

(e) The municipality or municipalities, individually or jointly, may operate, maintain, and improve, and may sell or lease in whole or in part, property acquired or constructed under this section and any improvements on that property. Municipalities may individually or jointly control and operate jointly owned facilities by contracting with one another on mutually agreeable terms.

(f) The governing body of a municipality providing water treatment facilities under this section may:

(1) issue negotiable municipal bonds or warrants for that purpose and impose taxes to provide the interest and sinking fund for those bonds or warrants in the manner provided by law for the issuance of tax supported bonds and warrants by the municipality; or

(2) issue revenue bonds supported by the revenues of one or more of the municipal utilities as provided by Chapter 1502, Government Code.

(g) The governing body of a municipality that acquires facilities or property under this section may impose reasonable charges for the use of the facilities or property. In the case of jointly operated facilities, the governing bodies of the municipalities involved may impose the charges by agreement.

(h) A municipality or a combination of municipalities acting under this section may contract with any other municipality to supply the other municipality with services from the facilities

or improvements acquired or constructed under this section. By ordinance, the governing bodies of the municipalities providing the services may prescribe and enforce rules relating to the use of the improvements and facilities.

(i) An election is not required for approval of any contract relating to water treatment under this section.

(j) In addition to taxes for the interest and sinking fund of bonds or warrants issued under this section, the governing body of the municipality separately or jointly acquiring improvements or facilities under this section may impose taxes for the improvement, operation, and maintenance of the improvements and facilities. Those taxes are subject to limits on taxation imposed by the constitution and laws of this state and by the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.346, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.012 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.013. WATER SYSTEM IN MUNICIPALITIES WITH POPULATION OF MORE THAN 1,000. (a) This section applies to a municipality with a population of more than 1,000 that owns and operates a water system for its residents for fire protection or domestic consumption. Except as otherwise provided by this section, a municipality's authority under this section is in addition to authority granted by municipal charter.

(b) The municipality may acquire any interest, including a fee simple interest, in publicly or privately owned property, including riparian rights, located anywhere in the state. The municipality may acquire the interest by purchase, gift, devise, or eminent domain.

(c) To furnish an adequate and wholesome supply of water for the residents, the municipality may exercise the power of eminent domain to acquire and condemn public or private property to extend, improve, or enlarge its water system, including water supply reservoirs, riparian rights, standpipes, and watersheds, to construct water supply reservoirs, wells or artesian wells, or

dams, and to construct or establish necessary facilities or appurtenances.

(d) For purposes of this section, the municipality has the same powers relating to eminent domain conferred by statute on water improvement districts or water control and preservation districts or conferred by general law on municipalities.

(e) The municipality may acquire fee simple title to property under this section if the resolution ordering condemnation proceedings specifies that such an interest is to be acquired.

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

Renumbered from Local Government Code, Section 402.013 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.014. CONTRACTS WITH WATER DISTRICTS OR NONPROFIT CORPORATIONS. (a) In this section:

(1) "Project" means a water supply or treatment system, a water distribution system, a sanitary sewage collection or treatment system, works or improvements necessary for drainage of land, recreational facilities, roads and improvements in aid of roads, or facilities to provide firefighting services.

(2) "Water district" means a district created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality may enter into a contract with a water district or with a corporation organized to be operated without profit under which the district or corporation will acquire for the benefit of and convey to the municipality, either separately or together, one or more projects. In connection with the acquisition, the district or corporation shall improve, enlarge, or extend the existing municipal facilities as provided by the contract.

(c) If the contract provides that the municipality assumes ownership of the project on completion of construction or at the time that all debt incurred by the district or corporation in the acquisition, construction, improvement, or extension of the project is paid in full, the municipality may make payments to the district or corporation for project services to part or all of the

residents of the municipality. The contract may provide for purchase of the project by the municipality through periodic payments to the district or corporation in amounts that, together with the net income of the district or corporation, are sufficient to pay the principal of and interest on the bonds of the district or corporation as they become due. The contract may provide:

(1) that any payments due under this section are payable from and are secured by a pledge of a specified part of the revenues of the municipality, including revenues from municipal sales and use taxes;

(2) for the levying of a tax to make payments due under this section; or

(3) that the payments due under this section be made from a combination of revenues and taxes.

(d) The contract may provide that the district or corporation may use the streets, alleys, and other public ways and places of the municipality for project purposes for a period that ends at the time the indebtedness of the district or corporation is paid in full and the municipality acquires title to the project in accordance with this section.

(e) The contract may provide for the operation of the project by the municipality, and, if so authorized, the municipality may operate the project.

(f) A contract under this section must be authorized by a majority vote of the governing body of the municipality.

(g) This section does not authorize a water district or corporation described by Subsection (b) to participate in a project that the water district or corporation is not authorized to participate in under other law.

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

Renumbered from Local Government Code, Section 402.014 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 3, eff. September 1, 2013.

Sec. 552.015. WATER SUPPLY IN TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality may provide for a municipal water supply system.

(b) The municipality may establish and regulate public wells, pumps, cisterns, hydrants, and reservoirs located inside or outside the municipality, including in the municipality's streets, for the convenience of its residents, for firefighting purposes, and for the prevention of unnecessary waste of water.

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

Renumbered from Local Government Code, Section 402.015 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.016. SALE OR LEASE OF WATER SYSTEM BY TYPE A GENERAL-LAW MUNICIPALITY. (a) A Type A general-law municipality may not sell or lease a water system and plant owned by the municipality unless the question of the sale or lease is first approved by a majority of the qualified voters of the municipality who vote on the question at a referendum. The governing body of the municipality may provide for submission of the question at a general or special election.

(b) Before the 20th day before the date of the election, the proposed lease or sales agreement must be plainly set out in the form of an ordinance or contract and must be filed in the office of the secretary or clerk of the municipality, where it shall be available for public inspection at all times.

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

Renumbered from Local Government Code, Section 402.016 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.017. WATER SYSTEMS IN HOME-RULE MUNICIPALITIES. (a) A home-rule municipality may exercise the exclusive right to own, construct, and operate a water system for the use of the municipality and its residents. The municipality may regulate the system and may prescribe rates for the water furnished.

(b) The municipality may acquire by purchase, donation, or

other means suitable land inside or outside the municipality for construction of the system, including any necessary rights-of-way.

(c) The municipality may take the necessary action to operate and maintain the system and to require water customers to pay charges imposed for the water furnished.

(d) The municipality may create, from revenue received from operating the water system, a separate fund dedicated solely to extending, operating, maintaining, repairing, and improving the water system. This revenue may be pledged for paying the principal of and providing an interest and sinking fund on bonds issued for these purposes, subject to applicable regulations in the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 304, Sec. 2, eff. Aug. 28, 1989.

Renumbered from Local Government Code, Section 402.017 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.018. MUNICIPAL CONTRACT WITH PRIVATE ENTITY. (a) A municipality that owns and operates its water distribution system may contract with an individual, firm, or corporation that operates without profit to make available for delivery to and use by the municipality all or part of the raw or treated water to be used for the municipal water distribution system. The service to be provided by the supplier may include the holding of water in reserve to serve needs of the municipality, and charges to the municipality under the contract may include compensation for this service.

(b) The contract may be for any duration to which the parties agree and may provide for renewal and extension.

(c) Contractual payments required solely from municipal water system revenue are an operating expense of that system. The municipality shall set its rates and charges to users of the municipal water system at a level sufficient to pay the maintenance and operating expenses of that system as provided by Section 1502.057, Government Code, and to provide for payment of principal of and interest on any revenue bonds of the municipality payable from water revenue.

(d) If a contract with a term of more than one year obligates the municipality to pay the consideration from tax revenue, involves the leasing to the supplier of a major part of an existing water production or supply facility belonging to the municipality or involves the right to operate a major part of such a facility, or restricts the municipality from obtaining water from another supplier, the contract is not effective unless approved or authorized at an election on the question.

(e) If Subsection (d) is not applicable, an election is not required. The governing body of the municipality may, however, order an election on the question before approving the contract.

(f) An election under this section shall be held to the extent practicable in the same manner as an election for the issuance of municipal bonds under Chapter 1251, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.347, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.018 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.019. CONTRACT WITH WATER IMPROVEMENT DISTRICT OR WATER CONTROL AND IMPROVEMENT DISTRICT. (a) A municipality may contract with a water improvement district or water control and improvement district created under Article XVI, Section 59, of the Texas Constitution for the supplying of water to the municipality. The governing body of the municipality and the board of directors of the district may provide for any duration for the contract that does not exceed 30 years, except that they may provide for the contract to continue in effect until the repayment of all warrants, notes, or bonds issued by the district to acquire facilities necessary or convenient for the district to supply water to the municipality.

(b) The municipality shall pay for water supplied under the contract from water system revenues of the municipality. Payment may be secured by an irrevocable pledge of and a first lien on those revenues. The district may not demand payment from tax revenue.

(c) A contract under this section is not binding until approved by a majority of the qualified voters of the municipality

who vote on the question at an election held for the purpose. The governing body of the municipality may order the election. Notice of the election must be published once each week for two consecutive weeks in a newspaper of general circulation published in the municipality, with the first publication occurring before the 10th day before the date of the election. If such a newspaper is not published in the municipality, notice of the election must be posted at each election precinct in the municipality and at the city hall. The notice need not set out the full text of the contract or detail its provisions. During the 10-day period preceding the date of the election, the proposed contract shall be on file at the office of the municipal secretary and available for public inspection. If the election results in approval of the contract, the contract takes effect immediately; otherwise the contract is ineffective.

(d) As is necessary or convenient to supply water under a contract made under this section, a district may:

(1) construct or otherwise acquire and equip canals, reservoirs, basins, pipelines, conduits, filtration and aeration plants, and other equipment and supplies; and

(2) acquire property by purchase, eminent domain, or other means.

(e) A contracting district may issue warrants, notes, or bonds for the acquisition of facilities necessary or convenient for supplying water under the contract. The district may secure those evidences of indebtedness by a pledge of revenues to be derived under the contract under this section. With voter approval, the district may issue bonds for this purpose secured by taxes or a combination of taxes and contract revenues.

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

Renumbered from Local Government Code, Section 402.019 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.020. CONTRACT WITH WATER DISTRICT. (a) In this section, "water district" means a district or authority created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality and a water district by contract may provide for the district to supply water to the municipality. By contract, the municipality and district may also provide for:

(1) the lease of the municipality's water production, water supply, and water supply facilities to the district;

(2) the district to operate the municipality's water production, water supply, and water supply facilities; or

(3) the municipality to operate the district's water production, water supply, and water supply facilities.

(c) A contract under this section may prohibit the municipality from obtaining water from sources other than the district, subject to any exceptions that the contract may provide.

(d) The contract may be on any terms and for any duration to which the parties agree and may provide that it continues in effect as long as any bonds of the district specified in the contract, including bonds issued to refund them, remain unpaid.

(e) A contract under this section is subject to the district's statutory or contractual duty to periodically revise the rate charged for water sold or services rendered by the district to the municipality under the contract so that the net revenues of the district will be sufficient to allow the district to pay its operation and maintenance expenses and the principal of and interest on the bonds secured by the contract to the extent provided by the resolution authorizing the bonds. Payments by the municipality under the contract are an operating expense of the municipal water system.

(f) A municipality may not contract under this section without first obtaining the approval of a majority of the qualified voters of the municipality who vote on the question at an election held for the purpose. The governing body of the municipality shall order the election. The governing body may submit to the voters the question of authorizing the municipality to make a water supply contract, a lease and water supply contract, or both. Both issues may be submitted as a single proposition. Notice of the election must be published once each week for two consecutive weeks in a newspaper of general circulation published in the municipality, with the first publication occurring before the 14th day before the

date of the election. If such a newspaper is not published in the municipality, notice of the election must be posted at the city hall and two other public places in the municipality. If the election result is favorable, the governing body shall enact an ordinance prescribing the form and substance of the lease or contract or both, as the case may be, and directing the mayor or mayor pro tempore to sign it. The ordinance may be enacted by a vote of a majority of the members of the governing body on one reading and at the same meeting at which it is introduced.

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

Renumbered from Local Government Code, Section 402.020 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.0205. REVENUE BONDS TO PAY FOR DISTRICT SERVICES UNDER CONTRACT. (a) In this section, "district" has the meaning assigned by Section 49.001, Water Code.

(b) If a district contracts with a municipality to provide all or part of the water or wastewater services to the municipality, the municipality may issue bonds payable from the revenues of its water and wastewater system to provide funds to make payments owed by the municipality to the district under the contract.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 36, eff. June 17, 2001.

Renumbered from Local Government Code, Section 402.0205 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.021. CONTRACT BETWEEN DISTRICT AND MUNICIPALITY WITH POPULATION OF MORE THAN 900,000. (a) In this section, "district" means a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution.

(b) A municipality with a population of more than 900,000 that owns and operates a municipal water system may:

(1) enter into a contract or joint enterprise with a district for the conveyance, transportation, and distribution of water for or on behalf of the municipality; or

(2) contract to sell water to a district and repurchase all or part of the water at one or more designated points on the district's conveyance, transportation, and distribution system.

(c) A contract under Subsection (b) may provide that municipal payments to the district under the contract:

(1) are an operating expense of the municipal water system; or

(2) are payable from surplus or other funds of the municipal water system, from the revenues of specified municipal water sales contracts, or from other sources.

(d) If the contract under Subsection (b) obligates the municipality to pay any of the consideration from tax revenue, it must first be approved at an election ordered and conducted in the same manner as a bond election.

(e) A contract under Subsection (b) may be made for any period not to exceed 40 years and may provide that it continues in effect until payment of:

(1) all bonds issued by the district to finance conveyance, transportation, or distribution facilities, or the extension, enlargement, or improvement of those facilities; and

(2) any bonds issued to refund bonds described by Subdivision (1).

(f) A municipality covered by this section may contract for the sale of water to industrial and commercial customers or municipal corporations or political subdivisions as provided by ordinance. A contract under this subsection may not be for a term longer than 40 years.

(g) A municipality electing to make a contract under this section is governed solely by this section regardless of another statute, charter provision, or ordinance to the contrary.

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

Renumbered from Local Government Code, Section 402.021 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.022. CONTRACTS WITH CERTAIN SPECIAL DISTRICTS.

(a) In this section, "special district" means a district that derives its powers from Article XVI, Section 59, of the Texas Constitution and that has statutory authority to contract with municipalities for the transportation and disposal of sewage.

(b) A municipality located in whole or in part in a county containing a special district, and acting under an ordinance enacted by its governing body, may enter into a contract with the district that may provide:

(1) that the district will make available to the municipality and provide sewage transportation, sewage treatment and disposal services, or any one or more of those services;

(2) for the provision of standby service; or

(3) for use by the district of sewage transportation, treatment, and disposal facilities owned by the municipality.

(c) The contract may be on terms and for a duration agreeable to the parties and may provide that it continue in effect until payment of:

(1) bonds issued by the district and specified in the contract; and

(2) any bonds issued to refund bonds described by Subdivision (1).

(d) The municipality is entitled to continued performance of services covered by the contract after the amortization of the district's investment in the facilities during the useful life of the facilities on payment of charges reduced to take into account the amortization.

(e) Except as provided by Subsection (f), revenue received by a special district from a municipality under a contract made under this section may be used only for:

(1) payment of principal of and interest on, and providing reserve for, bonds issued by the district to finance the facilities covered by the contract; and

(2) operating and maintenance expenses related to the contract, including legal, administrative, and management supervision fees and expenses.

(f) The contract may provide that a designated part of any surplus accumulated for the benefit of the municipality may be

spent by the district to enlarge or improve facilities of the district used to serve the municipality.

(g) Payments by a municipality to a district shall be made from revenues of the municipality's water system, sanitary sewer system, or both of those systems, or of the municipality's combined water and sanitary sewer system, as specified in the contract. Those payments are an operating expense of the system whose revenues are to be so applied. Except as provided by Subsection (h), neither the district nor a holder of the bonds of the district may demand payment of the municipality's obligations out of funds raised or to be raised by taxation.

(h) A municipality may pledge its taxing power in a contract made under this section if a majority of the qualified voters of the municipality who vote on the question at an election vote in favor of the proposed contract and the levy of property taxes to pay the municipality's obligations to the authority under the contract. The election shall be conducted in substantially the same manner as a municipal bond election held under Chapter 1251, Government Code. If the voters approve the contract and tax levy:

(1) the municipal governing body shall enact an ordinance prescribing the form and substance of the contract and directing the proper officers of the municipality to sign it; and

(2) once the contract has been executed, the municipality's obligations to the authority under the contract are an obligation of the municipality's taxing power, but may be paid, as provided by the contract, from taxes and revenues from which payments are required by Subsection (g).

(i) A municipality that has executed a contract under this section that is payable in whole or in part from revenue of the municipality's water or sanitary sewer system, or both of those systems, or the municipality's combined water and sewer system shall set and periodically adjust rates charged to users so that at all times that revenue is sufficient to pay:

(1) the expenses of operating and maintaining each system in accordance with current standards and requirements for preventing stream pollution;

(2) obligations of the municipality under the

contract; and

(3) all obligations of the municipality relating to revenue bonds issued from the system before or after execution of the contract under this section.

(j) The contract may require the use of consulting engineers and financial experts to advise the municipality as to when service rates are to be adjusted.

(k) A district may render services concurrently to more than one municipality through construction and operation of a plant serving multiple municipalities, with the cost for the services to be allocated among the participating municipalities as provided by one or more contracts made under this section. All the compensation to be received by and all the security pledged to the district by all municipalities is available to the authority to secure bonds issued to provide necessary construction funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.348, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.022 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.023. CONTRACT BETWEEN MUNICIPALITY AND TRINITY RIVER AUTHORITY. (a) In this section, "sewage disposal services" includes sewage transportation, treatment, and disposal.

(b) A municipality that is located in whole or in part inside the boundaries of the Trinity River Authority or located in whole or in part in the watershed of the Trinity River may, by ordinance, contract with the authority for the authority to provide the municipality with sewage disposal services. The contract may contain a provision for standby service. The contract may be made on terms and for a duration agreeable to the parties and may provide that it will continue in effect as long as specified bonds of the authority, including refunding bonds, remain unpaid. The municipality is entitled to the continued performance of services covered by the contract after amortization of the authority's investment in facilities during the useful life of the facilities, on payment of charges reduced to take the amortization into

account.

(c) Except as provided by Subsection (d), revenue received by the authority from a municipality under a contract made under this section may be used only for:

(1) payment of principal of and interest on, and providing reserves for, bonds issued by the authority to finance facilities for sewage disposal services; and

(2) operation and maintenance expenses related to the contract, including legal, administrative, and management supervision fees and expenses.

(d) The authority and a municipality may provide in the contract that a designated part of any surplus revenue accumulated for the benefit of the municipality may be spent by the authority to enlarge or improve facilities of the authority used especially to serve that municipality.

(e) The authority becomes owner of sewage accepted by it for transportation and treatment and is solely responsible for the proper treatment and disposal of the sewage and the effluent. A contracting municipality is immune from liability for any improper treatment or disposal of the sewage or effluent. A municipality is not entitled to credit of any type, either in the exchange of water, money, or other consideration, for any effluent delivered to the authority. Such an exchange or sale may not be made a condition to any contract under this section.

(f) Payments by a municipality under a contract shall be made from revenues of the municipality's water system, sanitary sewer system, or both of those systems, or of the municipality's combined water and sanitary sewer system, as specified in the contract. Those payments are an operating expense of the system whose revenues are pledged under the contract. Except as provided by Subsection (h), neither the authority nor a holder of bonds of the authority may demand payment of the municipality's obligations out of funds raised or to be raised by taxation.

(g) If at the time it executes a contract under this section a municipality has outstanding revenue bonds secured by a pledge of the net revenue from a combined water and sanitary sewer system plus the net revenue from the municipality's gas distribution or

electric power system, that portion of the payments made by the municipality to the authority and used by the authority for debt service on bonds of the authority may be treated by the municipality for its accounting purposes as a capital expenditure if:

(1) revenue from the municipality's gas or electric system, as the case may be, is adequate to satisfy the requirements of the ordinance or ordinances authorizing the outstanding revenue bonds and similarly secured bonds that may later be authorized, regarding the provision of funds for operation, maintenance, and debt service; and

(2) revenue from the municipality's sanitary sewer system and, if encumbered under the contract, from the municipality's water system, are sufficient to meet the requirements of the contract with the authority.

(h) A municipality may pledge its taxing power in a contract made under this section if a majority of the qualified voters of the municipality who vote on the question at an election vote in favor of the proposed contract and the levy of property taxes to pay the municipality's obligations to the authority under the contract. The election shall be conducted in substantially the same manner as a municipal bond election held under Chapter 1251, Government Code. If the voters approve the contract and tax levy:

(1) the municipal governing body shall enact an ordinance prescribing the form and substance of the contract and directing the proper officers of the municipality to sign it; and

(2) once the contract has been executed, the municipality's obligations to the authority under the contract are an obligation of the municipality's taxing power, but may be paid as provided by the contract, from taxes and revenues from which payments are required by Subsection (f).

(i) A municipality that has executed a contract under this section that is payable in whole or in part from revenue of the municipality's water or sewer system, or both of those systems, or the municipality's or combined water and sewer system shall set and periodically adjust rates charged to users so that at all times that revenue is sufficient to pay:

(1) the expenses of operating and maintaining the

system in accordance with current standards and requirements for preventing stream pollution;

(2) obligations of the municipality under the contract; and

(3) all obligations of the municipality relating to revenue bonds issued for the system before or after execution of the contract under this section.

(j) A contract under this section may require the use of consulting engineers and financial experts to advise the municipality as to when service rates are to be adjusted.

(k) The authority may render services concurrently to more than one municipality through construction and operation of a plant serving multiple municipalities, with the cost for the services to be allocated among the participating municipalities as provided by one or more contracts made under this section. All the compensation to be received by and all the security pledged to the authority by all municipalities is available to the authority to secure bonds issued to provide necessary construction funds. A contract used by the authority to secure bonds to finance its plant and facilities must be submitted by the authority to the attorney general for examination. If the attorney general approves the contract and bonds, the contract is incontestable.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 10.06, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 8.349, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.023 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.024. MUNICIPAL CONTRACT FOR RECLAIMED WATER FACILITY IN CERTAIN MUNICIPALITIES. (a) In this section, "reclaimed water project" means the design, construction, equipment, repair, reconstruction, replacement, expansion, operation, or maintenance of:

(1) a reclaimed water facility with a capacity of not less than 10 million gallons per day to be owned by a municipality; and

(2) related infrastructure.

(b) This section applies only to a home-rule municipality that:

(1) has a population of at least 99,000 and not more than 160,000;

(2) is located in two counties, only one of which has a population of at least 150,000 and not more than 170,000; and

(3) owns and operates a water system, sewer system, or combined system.

(c) A municipality to which this section applies may execute, perform, and make payments under a contract with any person for the development of a reclaimed water project and the provision of water from that project.

(d) A contract entered into under this section is an obligation of the municipality that:

(1) may provide that:

(A) the contract is payable from a pledge of the revenues of the water system, sewer system, or combined system of the municipality; or

(B) the payments from the municipality are an operating expense of the water system, sewer system, or combined system of the municipality; and

(2) may not be made payable from ad valorem taxes.

(e) A contract entered into under this section may:

(1) be in the form and on the terms considered appropriate by the governing body of the municipality;

(2) be for the term approved by the governing body of the municipality and contain an option to renew or extend the term;

(3) provide for the design, construction, and financing of the reclaimed water project by the person with whom the municipality contracts for the development of the reclaimed water project; and

(4) provide for the provision of reclaimed water for industrial purposes at specified rates for the term approved by the governing body of the municipality as part of the consideration for the acquisition of the reclaimed water project by the municipality.

(f) If a contract entered into under this section provides

for the design, construction, and financing of the reclaimed water project by the person with whom the municipality contracts:

(1) a contract procurement or delivery requirement applicable to the municipality does not apply to the reclaimed water project; and

(2) Chapter 2254, Government Code, does not apply to the reclaimed water project.

(g) Subchapter I, Chapter 271, applies to a written contract entered into under this section as if the contract were a contract described by Section 271.151(2).

(h) To the extent of a conflict with another statute or municipal charter provision or ordinance, this section controls.

(i) The validity or enforceability of a contract entered into under this section by a municipality is not affected if, after the contract is entered into, the municipality no longer meets the requirements described by Subsection (b).

Added by Acts 2017, 85th Leg., R.S., Ch. 78 (H.B. 101), Sec. 1, eff. May 23, 2017.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 197, eff. September 1, 2023.

SUBCHAPTER C. MUNICIPAL DRAINAGE UTILITY SYSTEMS

Sec. 552.041. SHORT TITLE. This subchapter may be cited as the Municipal Drainage Utility Systems Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.041 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.042. LEGISLATIVE FINDING. (a) The legislature finds that authority is needed to:

(1) permit municipalities to establish a municipal drainage utility system within the established service area;

(2) provide rules for the use, operation, and

financing of the system;

(3) protect the public health and safety in municipalities from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff within the boundaries of the established service area;

(4) delegate to municipalities the power to declare, after a public hearing, a drainage system created under this subchapter to be a public utility;

(5) prescribe bases on which a municipal drainage utility system may be funded and fees in support of the system may be assessed, levied, and collected;

(6) provide exemptions of certain persons from this subchapter; and

(7) prescribe other rules related to the subject of municipal drainage.

(b) This subchapter is remedial.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.
Renumbered from Local Government Code, Section 402.042 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.043. APPLICATION OF SUBCHAPTER TO MUNICIPALITIES. This subchapter applies to any municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(c), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.
Renumbered from Local Government Code, Section 402.043 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.044. DEFINITIONS. In this subchapter:

(1)(A) "Benefitted property" means an improved lot or tract to which drainage service is made available under this subchapter.

(B) "Benefitted property," in a municipality with a population of more than 1.18 million located primarily in a county with a population of 2.5 million or more which is operating a drainage utility system under this chapter, means a lot or tract, but does not include land appraised for agricultural use, to which drainage service is made available under this subchapter and which discharges into a creek, river, slough, culvert, or other channel that is part of the municipality's drainage utility system. Sections 552.053(c)(2) and (c)(3) do not apply to a municipality described in this subdivision.

(2) "Cost of service" as applied to a drainage system service to any benefitted property means:

(A) the prorated cost of the acquisition, whether by eminent domain or otherwise, of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;

(B) the prorated cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;

(C) the prorated cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of structures, equipment, and facilities used in draining the benefitted property;

(D) the prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;

(E) the prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a drainage facility used in draining the benefitted property;

(F) the prorated cost of debt service and reserve requirements of structures, equipment, and facilities provided by revenue bonds or other drainage revenue-pledge securities or

obligations issued by the municipality; and

(G) the administrative costs of a drainage utility system.

(3) "Drainage" means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

(4) "Drainage charge" means:

(A) the levy imposed to recover the cost of the service of the municipality in furnishing drainage for any benefitted property; and

(B) if specifically provided by the governing body of the municipality by ordinance, an amount made in contribution to funding of future drainage system construction by the municipality.

(5) "Drainage system" means the drainage owned or controlled in whole or in part by the municipality and dedicated to the service of benefitted property, including provisions for additions to the system.

(6) "Facilities" means the property, either real, personal, or mixed, that is used in providing drainage and included in the system.

(7) "Public utility" means a drainage service that is regularly provided by the municipality through municipal property dedicated to that service to the users of benefitted property within the service area and that is based on:

(A) an established schedule of charges;

(B) the use of the police power to implement the service; and

(C) nondiscriminatory, reasonable, and equitable terms as declared under this subchapter.

(8) "Service area" means the municipal boundaries and any other land areas outside the municipal boundaries which, as a result of topography or hydraulics, contribute overland flow into

the watersheds served by the drainage system of a municipality; provided, however, that in no event may a service area extend farther than the boundaries of a municipality's current extraterritorial jurisdiction, nor, except as provided by Section 552.0451, may a service area of one municipality extend into the boundaries of another municipality. The service area is to be established in the ordinance establishing the drainage utility. Provided, that no municipality shall extend a service area outside of its municipal boundaries except:

(A) a municipality of more than 500,000 population located within 50 miles of an international border;

(B) a municipality all or part of which is located over or within the Edwards Aquifer recharge zone or the Edwards Aquifer transition zone, as designated by the Texas Natural Resource Conservation Commission; or

(C) as provided by Section 552.0451.

(9) "User" means the person or entity who owns or occupies a benefitted property.

(10) "Improved lot or tract" means a lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

(11) "Wholly sufficient and privately owned drainage system" means land owned and operated by a person other than a municipal drainage utility system the drainage of which does not discharge into a creek, river, slough, culvert, or other channel that is part of a municipal drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 674, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 773, Sec. 1, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 35, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 76, Sec. 11.258, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 633, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 13.22, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 108, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 520 (S.B. 688), Sec. 1, eff. June 16, 2007.

Renumbered from Local Government Code, Section 402.044 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(5), eff. April 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 101, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 198, eff. September 1, 2023.

Sec. 552.045. ADOPTION OF SYSTEM; RULES. (a) Subject to the requirements in Subsections (b) and (c), the governing body of the municipality, by a majority vote of its entire membership, may adopt this subchapter by an ordinance that declares the adoption and that declares the drainage of the municipality to be a public utility.

(b) Before adopting the ordinance, the governing body must find that:

(1) the municipality will establish a schedule of drainage charges against all real property in the proposed service area subject to charges under this subchapter;

(2) the municipality will provide drainage for all real property in the proposed service area on payment of drainage charges, except real property exempted under this subchapter; and

(3) the municipality will offer drainage service on nondiscriminatory, reasonable, and equitable terms.

(c) Before adopting the ordinance, the governing body must publish a notice in a newspaper of general circulation in the municipality stating the time and place of a public hearing to consider the proposed ordinance. The proposed ordinance must be published in full in the notice. The governing body shall publish the notice three times before the date of the hearing. The first publication must occur on or before the 30th day before the date of the hearing.

(d) After passage of the ordinance adopting this subchapter, the municipality may levy a schedule of drainage charges. The municipality must hold a public hearing on the charges before levying the charges. The municipality must give notice of the hearing in the manner provided by Subsection (c). The proposed schedule of drainage charges, as originally adopted or as revised, must be published in the notice.

(e) The municipality by ordinance may adopt and enforce rules as it considers appropriate to operate the drainage utility system. Provided, however, that the prohibitions contained in Section 212.003(a) of the Local Government Code relating to quasi-zoning and other land use regulations in the extraterritorial jurisdiction of a municipality shall apply to any rule or ordinance adopted or enacted by the municipality under this Act, except that rates may be established using impervious cover measurements relating to land use and building size.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(e), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.045 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.0451. EXTENSION OF SERVICE AREA BY CERTAIN MUNICIPALITIES. (a) A municipality with a population of more than 900,000 located in one or more counties with a population of less than 1.5 million as of the 1990 federal census may extend its service area:

(1) into the boundaries of another municipality if:

(A) before the extension water from the municipality to which the service area is to be extended regularly drains into the drainage system of the municipality extending its service area; and

(B) the extension is provided for by an interlocal agreement between the municipalities; or

(2) beyond its municipal boundaries into an unincorporated area of its extraterritorial jurisdiction if:

(A) before the extension water from the area to which the service area is to be extended regularly drains into the drainage system of the municipality extending its service area; and

(B) the extension is provided for by an interlocal agreement between the municipality extending its service area and the county containing the area to which the service area is to be extended.

(b) An interlocal agreement under Subsection (a) may:

(1) contain provisions necessary for the operation of a drainage system within the area to which the service area is extended; and

(2) provide for charges for treatment of drainage water and methods of assessment of the charges to an owner of a lot or tract of benefitted property in the area to which the service area is extended.

(c) Charges and methods of assessment agreed to under Subsection (b)(2) must comply with Section 552.047.

Added by Acts 1993, 73rd Leg., ch. 773, Sec. 2, eff. June 18, 1993.
Renumbered from Local Government Code, Section 402.0451 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(6), eff. April 1, 2009.

Sec. 552.046. INCORPORATION OF EXISTING FACILITIES. The municipality may incorporate existing drainage facilities, materials, and supplies into the drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.
Renumbered from Local Government Code, Section 402.046 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.047. DRAINAGE CHARGES. (a) The governing body of the municipality may charge a lot or tract of benefitted property

for drainage service on any basis other than the value of the property, but the basis must be directly related to drainage and the terms of the levy, and any classification of the benefitted properties in the municipality must be nondiscriminatory, equitable, and reasonable.

(b) In setting the schedule of charges for drainage service, the governing body must base its calculations on an inventory of the lots and tracts within the service area. The governing body may use approved tax plats and assessment rolls for that purpose. The governing body may also consider the land use made of the benefitted property. The governing body may consider the size, in area, the number of water meters, and topography of a parcel of benefitted property, in assessing the drainage charge to the property.

(c) The governing body may fix rates for drainage charges in advance and may change, adjust, and readjust the rates and charges for drainage service from time to time. The rates must be equitable for similar services in all areas of the service area.

(d) Unless a person's lot or tract is exempted under this subchapter, the person may not use the drainage system for the lot or tract unless the person pays the full, established, drainage charge.

(e) Users residing within the established service area, but outside the municipality's boundaries, may appeal rates established for drainage charges under Section 13.043(b), Water Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.259, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 633, Sec. 2, eff. Sept. 1, 1997.

Renumbered from Local Government Code, Section 402.047 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 170 (H.B. 1600), Sec. 2.87, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 171 (S.B. 567), Sec. 87, eff. September 1, 2013.

Sec. 552.048. BILLINGS; DEPOSIT NOT REQUIRED. (a) The municipality may bill drainage charges, identified separately, with the municipality's other public utility billings. Any delinquent billings may be collected on the benefitted property under the procedure prescribed by this subchapter.

(b) The municipality may not require a deposit for drainage service as a precondition to accepting surface flow in the drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.048 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.049. SEGREGATION OF INCOME. The income of a drainage utility system must be segregated and completely identifiable in municipal accounts. If drainage charges are solely for the cost of service, the municipality may transfer the charges in whole or in part to the municipal general fund, except for any part collected outside municipal boundaries and except for any part pledged to retire any outstanding indebtedness or obligation incurred, or as a reserve for future construction, repair, or maintenance of the drainage system. If the governing body has levied, in the drainage charge, an amount in contribution to the funding of future system improvements, including replacement, new construction, or extension, that amount is not transferable to the general fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(f), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.049 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.050. DELINQUENT CHARGES. (a) Any charge due hereunder which is not paid when due may be recovered in an action

at law by the municipality. In addition to any other remedies or penalties provided at law or in this subchapter, failure of a user of the municipal utilities within the service area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provided by the municipality, and municipalities are hereby empowered to enforce this provision against delinquent users. The employees of the utility established in accordance with this subchapter shall have access, at all reasonable times, to any benefitted properties served by the drainage utility for inspection or repair or for the enforcement of the provisions of this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.050 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.051. DRAINAGE REVENUE BONDS. By majority vote of the governing body, the municipality may issue drainage revenue bonds. The municipality may use Chapter 1201, Government Code. In addition, the municipality may pledge income received by contracts for the provision of drainage to other governments or governmental subdivisions located inside or outside the service area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 2001, 77th Leg., ch. 1420, Sec. 8.350, eff. Sept. 1, 2001.

Renumbered from Local Government Code, Section 402.051 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.052. DISCONTINUATION OF DRAINAGE SYSTEM. (a) If, after at least five years of substantially continuous operation of a municipal drainage system, the governing body of the municipality determines that the system should be discontinued, that the powers under this subchapter should be revoked, and that provision for municipal drainage should be made by other revenues, the governing body may adopt an ordinance to that effect after providing notice

and a public hearing as provided by Section 552.045.

(b) If the municipality discontinues a system under Subsection (a), it may not adopt a system under this subchapter for at least five years after the discontinuation.

(c) A discontinuation does not affect a written obligation incurred by the municipality for funding or for the purchase of equipment, materials, or labor for the drainage system that is not then fully paid or otherwise discharged.

(d) A claim for damages based on an alleged failure of the drainage system that is filed with the municipality before the adoption of the ordinance discontinuing the drainage system is not abated by the discontinuation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(g), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.052 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(7), eff. April 1, 2009.

Sec. 552.053. EXEMPTIONS. (a) A governmental entity or person described by Subsection (b) and a lot or tract in which the governmental entity or person holds a freehold interest may be exempt from this subchapter and all ordinances, resolutions, and rules adopted under this subchapter.

(b) The following may be exempt:

(1) this state;

(2) a county;

(3) a municipality; or

(4) school districts and open-enrollment charter schools.

(c) The following shall be exempt from the provisions of any rules or ordinances adopted by a municipality pursuant to this Act:

(1) property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;

(2) property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the municipality in which the property is located for maintenance; and

(3) a subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the municipality in which the property is located.

(d) A municipality may exempt property owned by a religious organization that is exempt from taxation pursuant to Section 11.20, Tax Code, from all or a portion of drainage charges under this subchapter, as the governing body of the municipality considers appropriate.

(d-1) A municipality may exempt property used for cemetery purposes from drainage charges under Section 552.047 if the cemetery is closed to new interments and does not accept new burials.

(e) The following property is exempt from drainage charges under Section 552.047 and all ordinances, resolutions, and rules adopted under this subchapter:

(1) property owned by a county in which a municipality described by Section 552.044(8)(A) is located;

(2) property owned by a school district located wholly or partly in a municipality described by Section 552.044(8)(A); and

(3) property owned by a municipal housing authority of a municipality described by Section 552.044(8)(A).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 674, Sec. 2, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 773, Sec. 3, eff. June 18, 1993.

Renumbered from Local Government Code, Section 402.053 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 278 (S.B. 874), Sec. 1, eff. May 30, 2009.

Acts 2009, 81st Leg., R.S., Ch. 539 (S.B. 1522), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 16.006, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1230 (S.B. 609), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 161 (H.B. 1662), Sec. 1, eff. May 28, 2015.

Acts 2023, 88th Leg., R.S., Ch. 699 (H.B. 1707), Sec. 3, eff. June 12, 2023.

Sec. 552.054. EFFECT OF SUBCHAPTER. This subchapter does not:

(1) enhance or diminish the authority of a home-rule municipality to establish a drainage utility under Article XI, Section 5, of the Texas Constitution;

(2) preclude a municipality from utilizing revenues, other than drainage utility revenues, for drainage purposes; or

(3) preclude a municipality from imposing impact fees or other charges for drainage authorized by law.

Added by Acts 1989, 71st Leg., ch. 1230, Sec. 1(h), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.054 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER D. IMPROVEMENTS TO WATER AND SEWER SYSTEMS IN CERTAIN MUNICIPALITIES

Sec. 552.061. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES. To exercise authority under this subchapter, a municipality must:

(1) have all or a major part of its territory in a county with a population of more than 25,000; or

(2) be located in a county in which at least 60 percent of the total area is regularly covered by water and in which is located the majority of the total area of a wildlife refuge for species of wildlife on the federal endangered species list.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 83(b), eff. Aug. 28, 1989. Renumbered from Local Government Code, Section 402.061 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.062. DEFINITIONS. In this subchapter:

(1) "Benefitted property" means a lot or tract to which water or sewer service is made available under this subchapter.

(2) "Cost of improvement" includes engineering expenses, fiscal fees, and other expenses incident to the construction of improvements to the water system, sewer system, or both systems in addition to the other costs of the improvements.

(3) "Sewer system improvements" means the laying of mains, laterals, and extensions and all appliances and necessary adjuncts required for the sanitary disposal of excreta and offal from the area in which the improvements are made but does not include off-site mains, laterals, and extensions and appliances and adjuncts necessary to connect the improvements to the existing sewer system operated by the municipality.

(4) "Water system improvements" means the laying of a water main with gates, tees, crosses, taps, meter boxes, manholes, or extensions, and any other appurtenances required to furnish water for domestic or commercial purposes to the area in which the improvements are constructed, but does not include any off-site appurtenances required to connect the improvements to the existing water system operated by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Local Government Code, Section 402.062 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.063. MUNICIPAL AUTHORITY. (a) The municipality may improve a water works system or sanitary sewer system within the municipal boundaries by constructing, extending, enlarging, or reconstructing the system.

(b) The governing body of the municipality may determine the need for improvements, may order the construction of the necessary improvements, and may contract for the improvements.

(c) The governing body may act under this subchapter through resolution, motion, order, or ordinance unless an ordinance is specifically required. The governing body may adopt, by resolution or ordinance, any rules appropriate to the exercise of its powers under this subchapter, including rules relating to notice and hearing under this subchapter.

(d) The governing body may not assess a special tax or assessment against a railway, street railway, or interurban right-of-way to defray a portion of the cost of the improvements to the municipal water or sanitary sewer system.

(e) This subchapter does not affect the law of this state relating to the duty of a municipality to furnish water or sewer service in its proprietary capacity.

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

Renumbered from Local Government Code, Section 402.063 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.064. DECLARATION; COSTS; ESTIMATED ASSESSMENT. (a) In the ordinance or resolution that declares the need for the improvements, the municipality:

(1) must state the general nature and extent of the improvements; and

(2) may direct that detailed plans, specifications, and cost estimates for the improvements be prepared and submitted to the governing body.

(b) The cost of the improvements may be paid wholly by the municipality or partly by the municipality and partly by the benefitted property and its owners. If any part of the cost is to be paid by the benefitted property and its owners, the governing body of the municipality must prepare an estimate of the cost of the improvements. The governing body must prepare the estimate before any improvements are constructed, either before or after bids for the proposed construction are received by the municipality, but

before the hearing required under this subchapter is held.

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

Renumbered from Local Government Code, Section 402.064 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.065. ASSESSMENT PROVISIONS. (a) By ordinance, the governing body of the municipality may:

(1) assess not more than nine-tenths of the estimated cost of improvements against the benefitted property and the owners of that property;

(2) provide the time, terms, and conditions of payment and defaults of the assessments; and

(3) prescribe the interest rate on the assessment, not to exceed 10 percent a year.

(b) The governing body may issue in the name of the municipality assignable certificates in evidence of assessments levied under this section that declare the lien on the property and the liability of the owners whether named correctly or not. The governing body may set the terms and conditions of those certificates. If a certificate substantially states that the required proceeding relating to improvements referred to in the certificate has been held in compliance with law and that all the prerequisites to the fixing of an assessment lien against the property described in the certificate and the personal liability of the owner of the property have been performed, the certificate is prima facie evidence of all the matters recited in the certificate, and further proof is not required. In a suit on an assessment or reassessment in evidence of which a certificate may be issued under this subchapter, it is sufficient to allege the substance of the recitals in the certificate and that those recitals are true. Further allegations with reference to the proceedings relating to the assessment or reassessment are not necessary.

(c) An assessment against benefitted property under this section is collectable with interest, cost of collection, and reasonable attorney's fees. The assessment is a first and prior lien on the assessed property and the lien takes effect on the date

that a notice of proposed improvements is made under Section 552.067. The lien is superior to any other lien or claim except a state, county, school district, or municipal property tax lien. The assessment is a personal liability and charge against the owners of the assessed property on the date on which the lien takes effect, whether or not the owners are named in a notice, instrument, certificate, or ordinance provided for under this subchapter.

(d) The municipality may make assessments against several parcels of benefitted property in one assessment if the parcels are owned by the same person. The municipality may jointly assess benefitted property owned jointly by one or more persons.

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

Renumbered from Local Government Code, Section 402.065 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(8), eff. April 1, 2009.

Sec. 552.066. APPORTIONMENT OF ASSESSMENTS. (a) Except as provided by Subsection (c), the municipality shall separately compute the cost of the water or sewer improvements and shall apportion the part of the cost of those improvements that may be assessed against the benefitted property and the owners of the property, among the parcels of the benefitted property and the owners, in accordance with the front foot rule.

(b) Under the front foot rule, the governing body of the municipality shall assess each parcel of benefitted property according to the number of lineal feet of the parcel that abuts on a public street, irrespective of the location of improvements constructed under this subchapter relating to that parcel if the improvements provide water or sewer service to the assessed parcel. The governing body shall assess a corner lot based on the shorter side of the lot that abuts on a public street.

(c) If, in the opinion of the governing body, application of that rule would result in injustice or inequality in particular

cases, the governing body shall apportion and assess those costs in the proportion it considers just and equitable, taking into account the special benefits in enhanced value to be received by those owners, and shall adjust the apportionment so as to produce a substantial equality of benefits received and burdens imposed.

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

Renumbered from Local Government Code, Section 402.066 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.067. NOTICE OF PROPOSED IMPROVEMENTS; LIEN. (a) If the governing body of the municipality proposes to levy or assess any of the cost of improvements against the benefitted property as provided by Section 552.065, the governing body may file a notice, signed on behalf of the municipality by the municipal clerk, secretary, mayor, or other officer performing the duties of those officers, with the county clerk of the county in which the property is located. The notice must substantially show that the governing body has determined by order, directive, or otherwise that water or sewer system improvements are necessary, identify the required improvements by location or otherwise, state that a portion of the cost of the improvements is to be or has been specially assessed as a lien against the benefitted property, and describe that property. One notice may contain any number of systems or improvements.

(b) It is not necessary that a notice under this section give details or be sworn to or acknowledged. The governing body may file the notice at any time. The county clerk with whom the notice is filed shall record the notice in the records of mortgages or deeds of trust and shall index it in the name of the municipality and in the name or other designation of the water or sewer system to which the notice relates.

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

Renumbered from Local Government Code, Section 402.067 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(9), eff. April 1, 2009.

Sec. 552.068. EXEMPTIONS; PERSONAL LIABILITY FOR ASSESSMENT. (a) All property, including church and school property, is subject to a tax or assessment authorized for local improvements under this subchapter. However, this subchapter does not authorize the municipality or its governing body to fix a lien against any interest in property that is exempt from the lien of a special assessment for local improvements under the constitution of this state at the time the lien takes effect. The owner of such a property is personally liable for any assessment made in connection with the improvement, and the municipality may refuse water or sewer service to the owner until the owner pays the municipality the assessment made against the property or an amount equal to the assessment made against private property of equal or comparable size. The fact that an ordered improvement is omitted as to property, an interest in which is exempt, does not invalidate the lien or liability of assessment made against any other property.

(b) The municipality may enforce a lien created against any property and the personal liability of the owner of the property by an action in a court having jurisdiction or by sale of the assessed property in the manner provided by law or charter in effect in that municipality for the sale of property for municipal property taxes.

(c) As an aid to enforcement of the liability imposed by the assessment, the municipality may refuse to connect or may disconnect water or sewer service to a parcel of benefitted property during the period in which there is a default in the payment of any amount assessed under this subchapter against the parcel or its owner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.068 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.069. NOTICE AND HEARING REQUIREMENTS; APPEAL. (a) The municipality may not make an assessment under this

subchapter against any benefitted property until it has given notice and provided an opportunity for a hearing as provided by this section. The municipality may not make an assessment against any benefitted property or the owners of the property in excess of the enhancement of value of the property caused by the improvements as determined by the hearing.

(b) The municipality shall deliver the notice required under this section in writing by mailing the notice to the address of the owner of the property or to the person who last paid taxes on the property as determined by the municipal tax rolls. The municipality must mail the notice before the 10th day before the date set for the hearing and must publish the notice at least three times in a newspaper of general circulation in the municipality in which the special assessment tax is to be imposed. The municipality shall publish the first notice before the 10th day before the date set for the hearing. Proof of the mailing and publication constitutes proof that all the notice requirements of this section have been met.

(c) A notice is sufficient, valid, and binding on all persons who own or claim benefitted property or an interest in that property if the notice:

(1) generally describes the nature of the improvements for which the municipality proposes to make assessments and to which the notice relates;

(2) describes the water or sanitary sewer system to be improved or the portions of that system to which the improvements relate;

(3) states the estimated amount per front foot proposed to be assessed against benefitted property or the owners of the property;

(4) describes the property benefitted by each system or portion of system with reference to which the required hearing is to be held;

(5) states the estimated total cost of the improvements on each system or portion of a system; and

(6) states the time and place of the hearing.

(d) The governing body of the municipality shall conduct the

hearing. Each person who owns or claims benefitted property or an interest in that property is entitled to be heard on any matter to which a hearing is a constitutional prerequisite to the validity of an assessment authorized by this subchapter. Such a person may contest the amount of the proposed assessment, the lien and liability for the lien, the special benefits claimed for the property to be improved and its owner by means of improvements for which assessments are to be levied, and the accuracy, sufficiency, regularity, and validity of the proceedings and any contract in connection with the improvements and proposed assessments. The governing body may correct any deficiencies and may determine the amounts of the assessments and other necessary matters. By ordinance, the municipality may close the hearing and may levy the assessment for improvements before, during, or after the construction of those improvements. The municipality may not make any part of such an assessment mature before the acceptance by the municipality of the improvements for which the assessment is levied.

(e) A person who owns or claims assessed property or an interest in that property may appeal the assessment based on the amount of the assessment; on any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract relating to the assessment; or on anything that is not within the discretion of the governing body of the municipality, by bringing suit in a court of competent jurisdiction within 15 days after the date the assessment is levied. A claimant who does not bring suit within that time waives the right to contest any matter that might have been presented at the hearing and is barred and estopped from contesting the assessment or the proceedings and contract relating to the assessment in any manner. The only defense to an assessment in a suit brought to enforce the assessment is failure to publish notice as required by this section or that the assessment exceeds the amount of the estimate. The words or acts of any municipal officer or employee, including a member of the governing body, do not affect the force and effect of this subchapter, except for official actions of the governing body as shown in its written proceedings and records.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.069 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.070. CHANGE; ABANDONMENT. (a) Except as limited by this section, the governing body of the municipality may change plans, methods, contracts, or other proceedings relating to improvements.

(b) The governing body may not make a change that substantially affects the nature or quality of the improvements unless the governing body, by a two-thirds vote, determines that it is impractical to proceed with the improvements as proposed.

(c) If a substantial change is made after a hearing has been ordered or held, a new cost estimate and a new hearing with proper notices is required unless the improvement is totally abandoned.

(d) A change in or an abandonment of improvements requires the consent of any person who has contracted with the municipality for the construction of the improvements.

(e) If improvements are abandoned, the municipality shall pass an ordinance that cancels any assessments already levied for the improvements and that cancels any other proceedings relating to those improvements.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.070 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.071. CORRECTIONS; REASSESSMENTS. (a) If an assessment is determined to be invalid or unenforceable, the governing body of the municipality may correct any deficiency in the proceedings relating to the assessment or any mistake or irregularity in connection with the assessment. The governing body may make and levy reassessments after a notice and hearing that comply as nearly as possible with the requirements for the original notice and hearing, and subject to the provisions relating to special benefits. A recital in a certificate issued as evidence of

a reassessment has the same force as a recital in a certificate related to an original assessment.

(b) A person who owns or claims an interest in property against which a reassessment is levied has the same right of appeal provided under this subchapter for an original assessment. If the person does not appeal within 15 days after the date of the hearing relating to the reassessment, the provisions of Section 552.069 relating to waiver, bar, estoppel, and defense apply.

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

Renumbered from Local Government Code, Section 402.071 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(10), eff. April 1, 2009.

Sec. 552.072. JOINT PROCEEDINGS. The municipality may make the improvements and assessments provided under this subchapter in conjunction with the street improvements and assessments provided for in Chapter 313, Transportation Code, through a joint proceeding. If a joint proceeding is conducted, only one hearing is required, and the procedure required under this subchapter controls. The municipality may issue a single assessment certificate against a parcel of benefitted property and its owner in evidence of the total assessment made for all improvements made under this subchapter, including street improvements made in a joint proceeding, if the amount assessed for each class of improvements is set out separately and distinctly in the ordinance under which the assessment is made.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.227, eff. Sept. 1, 1997.

Renumbered from Local Government Code, Section 402.072 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.073. RESTRICTIONS IN CERTAIN COUNTIES. (a) In this section, "subdivided or platted property" means property that:

(1) has been platted under Chapter 212; or

(2) has been subdivided or platted by a map or plat that is filed for record in the office of any county clerk and that contains a dedication of the property for public use for a street or alley right-of-way or for a public utility easement.

(b) A municipality located in a county with a population of less than 700,000 may not make an assessment or other charge for the construction of improvements to a water or sewer system against any property or property owner, regardless of who initiates the request for the construction, unless the property is located in an area that has been subdivided or platted for at least the 10 years preceding the date of the assessment.

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

Renumbered from Local Government Code, Section 402.073 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.074. AUTHORIZED INVESTMENT. A certificate of special assessment issued under this subchapter, including a certificate issued under a joint proceeding under Section 552.072, is a legal and authorized investment for a bank, savings bank, trust company, savings and loan association, insurance company, sinking fund of a municipality, county, school district, or other political subdivision of this state, and for all other public funds of this state or an agency of this state.

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

Renumbered from Local Government Code, Section 402.074 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(11), eff. April 1, 2009.

Sec. 552.075. HOME-RULE MUNICIPALITY. A home-rule municipality to which this subchapter applies may adopt plans and specifications for improvements as provided by this subchapter and may pay in cash to the contractor who is the successful bidder that

part of the cost assessed against the owner and the benefitted property. The municipality may reimburse itself by levying an assessment against the benefitted property and its owner after notice and hearing as provided by this subchapter. The municipality may reimburse itself up to the amount of the enhancement in value represented by the benefits and as permitted under this subchapter and may issue assignable certificates in favor of the municipality for the assessment. The certificates are enforceable in the manner provided by Section 552.065. The municipality may use its own forces to make the improvements if the work may be performed more expeditiously and economically in that manner.

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

Renumbered from Local Government Code, Section 402.075 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(12), eff. April 1, 2009.

SUBCHAPTER E. CONSTRUCTION OF SANITARY SEWERS IN CERTAIN MUNICIPALITIES

Sec. 552.091. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES. To exercise authority under this subchapter, a municipality must have:

(1) a population of less than 15,000;

(2) levied the maximum rate of tax allowed by law; and

(3) adopted Subchapters A through C, Chapter 312, Transportation Code.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 12, eff. Sept. 1, 1995.

Renumbered from Local Government Code, Section 402.091 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.092. CONSTRUCTION OF SANITARY SEWERS. (a) The governing body of a municipality may order the construction and

installation of sanitary sewers if it is presented with a petition that is signed by at least two-thirds of the owners of property abutting the proposed construction.

(b) A municipality's authority under this subchapter is subject to the same provisions relating to assessments, hearings, and other matters that apply to a highway improvement ordered under Subchapters A through C, Chapter 312, Transportation Code.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 12, eff. Sept. 1, 1995.
Renumbered from Local Government Code, Section 402.092 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER F. MUNICIPAL WATER CORPORATIONS AND MUNICIPAL WATER SYSTEMS

Sec. 552.101. MUNICIPAL WATER CONTRACTS. The governing body of a municipality in which there is a water corporation may contract with the corporation to supply water to a street, alley, lot, square, or public place in a municipality.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997.
Renumbered from Local Government Code, Section 402.101 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.102. EMINENT DOMAIN BY MUNICIPAL SEWER PROVIDERS. (a) A corporation incorporated in this state for the purpose of owning, constructing, or maintaining a sewer system in a municipality may by eminent domain condemn private property to:

(1) construct and maintain sewer pipes, mains and laterals, and connections; and

(2) maintain vats, filtration pipes, and other pipes for the final disposition of sewage.

(b) A corporation may exercise a power described by Subsection (a) only if:

(1) the use of private property is necessary for the successful operation of the sewer system; and

(2) the sewer system is beneficial to the public use,

health, or convenience.

(c) The power of eminent domain may not be used under this section in the boundaries of a municipality unless permitted or required by the municipality granting a franchise to the corporation seeking the right of condemnation.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997.
Renumbered from Local Government Code, Section 402.102 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.103. RIGHTS OF WATER CORPORATION PROVIDING SERVICE TO MUNICIPALITY; EMINENT DOMAIN. (a) A water corporation in a municipality may sell and furnish water required by a municipality for a public or private building or for any other purpose.

(b) A water corporation may lay water system pipes, mains, or conductors through a street, alley, lane, or square of a municipality if the governing body of the municipality consents, subject to any regulation by the governing body.

(c) If necessary to preserve the public health, a water corporation incorporated under state law to construct waterworks or to furnish water supply to a municipality may exercise the power of eminent domain to condemn private property necessary to construct a supply reservoir or standpipe for water work.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997.
Renumbered from Local Government Code, Section 402.103 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.104. LOCATION OF WATER LINES OUTSIDE MUNICIPAL BOUNDARIES. (a) A water corporation or municipality may lay water system pipes, mains, conductors, or other fixtures through, under, along, across, or over a public road, a public street, or a public waterway not in a municipality in a manner that does not inconvenience the public using the road, street, or waterway.

(b) A water corporation or municipality proposing under this subchapter to build a water line along the right-of-way of a state highway or county road not in a municipality shall give notice

of the proposal to:

(1) the Texas Transportation Commission, if the proposal relates to a state highway; or

(2) the commissioners court of the county if the proposal relates to a county road.

(c) On receipt of notice under Subsection (b), the Texas Transportation Commission or commissioners court may designate the location in the right-of-way where the corporation or municipality may construct the water line.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.104 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.105. RELOCATION OF WATER LINE TO ALLOW CHANGE TO TRAFFIC LANE. (a) The authority of the Texas Transportation Commission under this section is limited to a water line on a state highway not in a municipality. The authority of the commissioners court under this section is limited to a water line on a county road not in a municipality.

(b) The Texas Transportation Commission or the commissioners court of a county may require a water corporation or municipality to relocate the corporation's or municipality's water line at the corporation's or municipality's own expense to allow the widening or other changing of a traffic lane.

(c) To impose a requirement under this section, the Texas Transportation Commission or the commissioners court, as appropriate, must give to the water corporation or municipality 30 days' written notice of the requirement. The notice must identify the water line to be relocated and indicate the location on the new right-of-way where the corporation or municipality may place the line.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 3, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.105 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER G. MANAGEMENT OF CERTAIN ENCUMBERED MUNICIPAL ELECTRIC UTILITY SYSTEMS

Sec. 552.121. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality that owns an electric utility system, that by ordinance or charter elects to have the management and control of the utility system governed by a board of trustees, and that:

(1) has outstanding obligations payable in whole or in part from and secured by a lien on and pledge of the net revenue of the system; or

(2) issues obligations that:

(A) are payable in whole or in part from and secured by a lien on and pledge of the net revenue of the system; and

(B) are approved by the attorney general.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 402.121 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.122. TRANSFER OF MANAGEMENT AND CONTROL OF ELECTRIC UTILITY SYSTEM. (a) A municipality by ordinance may transfer management and control of the municipality's electric utility system to a board of trustees appointed by the municipality's governing body.

(b) The municipality by ordinance shall prescribe:

(1) the number of members; and

(2) the qualifications for appointment to the board.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.
Renumbered from Local Government Code, Section 402.122 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.123. AUTHORITY OF BOARD OF TRUSTEES. (a) The municipality by ordinance may vest in the board the power to establish rates and related terms for its municipally owned electric utility system.

(b) The municipality may delegate to the board of trustees all or part of the municipality's authority to:

(1) exercise the power of eminent domain with respect to property that will be used by, useful to, or required by the utility system; and

(2) issue obligations in the name of the municipality to acquire or construct an improvement to or extension of the utility system or to repair the system.

(c) The municipality may authorize the board of trustees to issue obligations under Subsection (b)(2) without the prior approval of the municipality. The obligations must be payable solely from the net revenue of the utility system.

(d) The municipality may not delegate to the board of trustees the authority to:

(1) levy or collect ad valorem taxes; or

(2) issue obligations that are payable in whole or in part from ad valorem taxes.

(e) The municipality and the board of trustees may jointly provide for the issuance of obligations payable from ad valorem taxes and the utility system's net revenue by adopting identical provisions in an ordinance or resolution, as appropriate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.106(a), eff. Sept. 1, 2001.

Renumbered from Local Government Code, Section 402.123 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.124. EFFECT OF PREVIOUSLY ISSUED BONDS. (a) A municipality or an existing board of trustees may not exercise a power provided by this subchapter in relation to an obligation issued before June 14, 1989, unless the ordinance authorizing the

issuance of the obligation or the deed of trust or trust indenture securing payment of the obligation specifically allows the municipality or board to exercise the power. The authority of the municipality or board in relation to that obligation is subject to any restriction or covenant contained in the ordinance, deed of trust, or trust indenture.

(b) The board of trustees may authorize, issue, and sell additional obligations on a parity with an obligation issued before June 14, 1989, if the ordinance, deed of trust, or trust indenture provides for the issuance of the obligations. The obligations must be payable from the revenue pledged to pay the previous obligation and must be secured by pledges and liens on a parity with the pledge securing the previous obligation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 402.124 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER H. MANAGEMENT OF CERTAIN ENCUMBERED MUNICIPAL WATER SYSTEMS

Sec. 552.141. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality that owns or may own a water, wastewater, storm water, or drainage utility system, by ordinance or charter elects to have the management and control of two or more of those utility systems governed by this subchapter, and:

(1) has outstanding obligations payable solely from and secured by a lien on and pledge of the net revenue of one or more of those systems; or

(2) issues obligations that are payable solely from and secured by a lien on and pledge of the net revenue of one or more of those systems.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 402.141 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1003 (H.B. 2207), Sec. 2, eff. June 17, 2011.

Sec. 552.142. TRANSFER OF MANAGEMENT AND CONTROL OF UTILITY SYSTEM. (a) A municipality by ordinance may transfer management and control of two or more of its water, wastewater, storm water, or drainage systems to a board of trustees. A municipality by ordinance may grant the board authority to set rates and related terms for the systems.

(b) The board of trustees must consist of at least seven members, one of whom must be the presiding officer of the governing body of the municipality.

(c) The ordinance transferring management and control must prescribe the number, qualifications, terms of office, succession, compensation, powers, and duties of the members of the board of trustees.

(d) On any matter not covered by the ordinance, the board is governed by the laws and rules governing the governing body of the municipality, to the extent applicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 13, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 402.142 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1003 (H.B. 2207), Sec. 3, eff. June 17, 2011.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 552.901. RELOCATION OR REPLACEMENT OF WATER OR SEWER LATERALS. (a) By ordinance, a municipality may contract for the relocation or replacement of a sanitation sewer lateral or water lateral that serves a residential structure on private property to connect the lateral to a new, renovated, or rebuilt sanitation main or water main constructed by the municipality. The municipality shall assess the cost of the relocation or replacement of the

lateral against the property on which the lateral is located. A lien attaches to the property for the cost of the relocation or replacement.

(b) Before a municipality contracts under Subsection (a), the municipality must obtain the property owner's written consent to the contract, to the relocation or replacement of the sewer lateral or water lateral, and to the assessment. The written consent must state that the person giving the consent is the property owner or the authorized representative of the property owner, must state the owner's address, and must state that:

(1) the consent is given freely;

(2) the owner understands that as a result of the assessment a lien attaches to the property for the total cost of the relocation or replacement;

(3) the municipality will not pay any part of the relocation or replacement cost; and

(4) the owner has five years from the date the work is completed to repay the cost to the municipality.

(c) Before the contract for the work is made but after the municipality has received bids for the work, the municipality must give notice to the property owner. The notice must state the bid price accepted by the municipality for the completion of the work and that the contract price may be increased by not more than 10 percent because of changes without the written consent of the owner. The notice shall be given to the owner by personal delivery, or by depositing the notice in the United States mail, postage prepaid, addressed to the owner at the address in the owner's written consent.

(d) The municipality shall contract for the performance of the work in accordance with the law applicable to public improvements before work begins on the relocation or replacement of a lateral and after the municipality files the written consent of the property owner with the municipal clerk or municipal secretary. The contract may be changed as necessary for the successful completion of the work, but the contract price may not be increased by more than 10 percent because of those changes without the written consent of the owner as provided by Subsection (c).

(e) Unless the owner waives the right to reject the contract as provided by Subsection (f) on or before the 45th day after the date the notice is mailed or delivered, the owner may exercise that right by notifying the municipal clerk or municipal secretary of the withdrawal of consent. If the owner fails to withdraw consent during the 45-day period, the municipality may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner. After the expiration of the 45-day period, the owner may not withdraw the consent.

(f) The owner may waive the right to reject the contract by filing a sworn affidavit to that effect with the municipal clerk or municipal secretary. After the affidavit is filed, the municipality may contract for the performance of the work, the work may proceed, and the assessment may be made without further consent by the owner.

(g) On receipt by the municipality of a certificate from the contractor certifying that all work has been completed in accordance with the contract, and on a finding by the municipality that the work has been properly completed in accordance with the applicable codes and ordinances of the municipality, the municipality may pay the contractor the cost of the completed work.

(h) When payment is made to the contractor, the municipality shall issue a certificate certifying that the work has been completed and that payment has been made under the contract. The municipality shall file the certificate with the county clerk of the county in which the property is located and shall deliver a copy of the certificate to the property owner.

(i) The property owner, within five years after the date of the issuance of the certificate under Subsection (h), must pay the municipality the amount that the municipality paid for the completed work as evidenced by the certificate, plus simple interest in an amount not to exceed 10 percent a year as set by the governing body of the municipality. On payment of the principal amount and accrued interest, the municipality shall issue a release of the assessment and lien. The release may be filed for record as provided by law.

(j) If the property owner does not pay the assessment during the five-year period, the municipality may enforce the lien on the property in the same manner in which it is authorized by law to enforce the lien for a paving or other assessment.

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

Renumbered from Local Government Code, Section 402.901 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.902. OPERATION OF CERTAIN ELECTRIC LIGHT AND POWER SYSTEMS BY HOME-RULE MUNICIPALITIES. (a) If a home-rule municipality, whose charter authorizes it to furnish electric light and power service inside and outside the municipal boundaries, owned and operated a municipal electric system as of July 4, 1949, and on that date owned and operated a rural electric system as a unit separate from the municipal system, and if the governing body of the municipality set up a rural electric system as a separate system, the bonds, mortgages, warrants, or other evidences of indebtedness are obligations of the system which they benefitted. The obligations of one system do not apply to or affect the other system.

(b) Any issued obligation of a system is not a debt of the municipality but is only a charge on the properties of the system and may not be considered in determining the ability of the municipality to issue bonds for any purpose authorized by law.

(c) The expense of operation and maintenance of each system is a first lien and charge against the income of the system. Operation and maintenance expenses include salaries, labor, repairs, cost of electrical energy, interest, repairs or extensions necessary for efficient service, and other proper operation and maintenance expenses.

(d) The governing body of the municipality shall charge and collect for each service a rate sufficient to:

(1) pay operation and maintenance expenses, depreciation, replacement, improvement, and interest;

(2) pay the principal of and interest on obligations issued against each system separately; and

(3) maintain any reserves required by the ordinance authorizing the issuance of the obligations.

(e) None of the income of a system may be used to pay any other debt, expense, or operation until the secured indebtedness is finally paid.

(f) Each evidence of indebtedness issued by a municipality to which this section applies must contain the clause: "The holder of the instrument hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." The evidence of indebtedness must be payable not more than 40 years from the date of the instrument and may bear interest at a rate not to exceed five percent a year. The instrument must be signed by the mayor and countersigned by the municipal secretary. Facsimile signatures of those officers may be printed on interest coupons attached to the instrument.

(g) A municipality to which this section applies is not required to submit an instrument issued against either of the systems to any public official of this state. The only approval required or authorized by this section is that of the governing body of the municipality. An obligation issued under this section is not contestable after issuance and delivery except for fraud and forgery.

(h) This section does not authorize a municipality to construct facilities or furnish electric power and energy to an area served with central station electric service as of July 4, 1949.

(i) An obligation issued under this section is exempt from state or local taxation.

(j) After a finding that a merger is in the best interests of its separately owned rural electric system and its municipal electric system, the governing body of a municipality to which this section applies may by ordinance order a merger of the systems. After the merger, all laws relating to the municipal electric system, including laws relating to authorization and issuance of bonds, apply to the merged system.

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

Renumbered from Local Government Code, Section 402.902 by Acts

2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.903. AGREEMENT WITH CONSERVATION AND RECLAMATION DISTRICT. (a) A municipality may agree or contract with a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution for the supply and purchase of hydroelectric power or energy. The agreement or contract shall be for a period and contain the terms and conditions agreed on by the parties. The agreement or contract is a valid and binding municipal obligation that is enforceable as provided by its terms.

(b) The agreement or contract may provide for the municipality to pay for the hydroelectric power or energy whether or not the power or energy is produced or delivered to the municipality. The agreement or contract may include provisions relating to acquiring, constructing, and equipping generation and transmission facilities to supply the power and energy, provisions relating to financing the costs of the generation and transmission facilities, and provisions that the agreement or contract continues in effect while any obligations specified in the agreement or contract, including refunding obligations, remain outstanding. The provisions shall be as specified in the agreement or contract.

(c) If provided in the agreement or contract, the amounts required to be paid by the municipality to the district under the agreement or contract are an operating expense of the electric system, or combined utility system of which the electric system is a part, in the manner provided for other operating and maintenance expenses of the electric system or combined utility system as provided by Section 1502.056, Government Code.

(d) Notwithstanding any express or implied limitation on municipal power or purposes under any general or special law, charter provision, or ordinance, this section is authority for the performance of an agreement or contract entered into under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 23.06, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.351, eff. Sept. 1, 2001.

Renumbered from Local Government Code, Section 402.903 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.904. LEASE OF NATURAL GAS DISTRIBUTION SYSTEM BY CERTAIN MUNICIPALITIES. (a) A municipality that owns its natural gas distribution system and that has conducted an election before July 13, 1959, that resulted in a vote to sell the system may, by majority vote of the governing body, enter a contract to lease the system to any person. The municipality may also grant an option to the lessee or other person to purchase the system at a price specified or determined in the manner provided by the lease or option contract.

(b) If the municipality has any outstanding bonds that are payable from the revenues of the system, unless the municipality provides for the full payment of the bonds with interest to their maturities or to the date the bonds are to be redeemed before maturity, it may not enter a lease or option contract except under the conditions specified in the ordinance that authorized the bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.904 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.905. OPERATION OF CABLE TV SYSTEMS BY GENERAL-LAW MUNICIPALITIES. A general-law municipality may own and/or operate a cable TV system.

Added by Acts 1995, 74th Leg., ch. 674, Sec. 1, eff. Aug. 28, 1995.
Renumbered from Local Government Code, Section 402.905 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.906. MUNICIPAL UTILITY PLANTS. (a) This section applies only to a general-law municipality that owns a utility plant that provides utility service.

(b) The governing body of a municipality may:

(1) by ordinance regulate the rates and compensation charged the public by the municipality for utility service;

(2) establish and operate a plant to manufacture, generate, or produce utility service; and

(3) sell and distribute utility service to the public in the municipality's boundaries.

(c) In this section, "utility service" means the provision of water, sewer service, gas, electric energy, or a substance used for lighting, heat, or power.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 4, eff. Sept. 1, 1997. Renumbered from Local Government Code, Section 402.906 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.907. CONSTRUCTION OF WATER OR WASTEWATER IMPROVEMENTS TO PRESERVE WATER QUALITY AQUIFER. (a) This section applies only to territory located in a municipality or in the extraterritorial jurisdiction of a municipality and located over the recharge zone of an aquifer that provides all or part of the water supply of the municipality.

(b) To preserve the quality of the aquifer, the municipality or a person with whom the municipality contracts may:

(1) construct a sanitation sewer lateral or water lateral that serves a residential structure on private property to connect the lateral to a new, renovated, or rebuilt sanitation main or water main constructed by or for the municipality; and

(2) take any action necessary to remedy aquifer pollution problems caused by septic tanks or septic systems located on the property, including filling in the tank or system or removing the tank or system.

(c) The municipality shall assess the cost of the water or wastewater improvements under Subsection (b)(1) or Subsections (b)(1) and (b)(2), as applicable, against the property on which the lateral is located. A lien attaches to the property for the cost of the improvements.

(d) Before a municipality acts under Subsection (b), the municipality must give notice to the property owner and obtain the

property owner's written consent to the activity to be performed and to the amount of the assessment.

(e) The notice provided under Subsection (d) must state the estimated cost to the property owner of the improvements and state that the cost may be increased by not more than 10 percent because of changes without the written consent of the owner. The municipality shall give the notice to the owner by personal delivery or by depositing the notice in the United States mail with postage prepaid.

(f) To be valid, the owner's written consent must:

(1) state that the person giving the consent is the property owner or the authorized representative of the property owner;

(2) state the owner's address; and

(3) state that:

(A) the consent is given freely;

(B) the owner understands that as a result of the assessment a lien attaches to the property for the total cost of the improvements;

(C) the municipality will not pay any part of the cost of the improvements; and

(D) the owner will repay the cost to the municipality on or before the fifth anniversary of the date the municipality certifies the work is completed.

(g) The municipality shall file the written consent of the property owner with the municipal clerk or secretary.

(h) If the municipality contracts with another person to perform the work, the contract must be awarded in compliance with the competitive bidding requirements applicable to the municipality. The provisions of the contract must comply with any law applicable to the construction of public improvements by the municipality. The contract may be changed as necessary for the successful completion of the work, but the contract price may not be increased by more than 10 percent because of those changes without the written consent of the owner as provided by Subsection (e).

(i) When the work is completed, the municipality shall issue a certificate certifying that the work has been completed and the

cost of the improvements. The municipality shall file the certificate with the county clerk of the county in which the property is located and shall deliver a copy of the certificate to the property owner. The certificate must contain the legal description of the land and name of the property owner. The lien created pursuant to this section shall attach and arise when the certificate is recorded in the real property records. The lien is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the recording of the certificate.

(j) The property owner, on or before the fifth anniversary of the date of the issuance of the certificate, must pay the municipality the amount that the completed work cost the municipality as evidenced by the certificate, plus simple interest in an amount not to exceed 10 percent a year as set by the governing body of the municipality. On payment of the principal amount and accrued interest, the municipality shall issue a release of the assessment and lien. The release may be filed for record as provided by law.

(k) If the property owner does not pay the assessment during the five-year period, the municipality may enforce the lien on the property in the same manner in which it is authorized by law to enforce the lien for a paving or other assessment.

Added by Acts 1997, 75th Leg., ch. 171, Sec. 1, eff. Sept. 1, 1997.
Renumbered from Sec. 402.906 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(87), eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 402.907 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.909. PROHIBITED EMPLOYMENT OF OR CONTRACTING WITH FORMER TRUSTEE OR BOARD MEMBER. (a) This section applies to a municipality that creates a board of trustees or other board to manage and control a water, wastewater, storm water, or drainage utility system that the municipality owns.

(b) The municipality or a board of trustees or other board described by Subsection (a) may not employ or contract with an

individual who was a member of the board before the second anniversary of the date the individual ceased to be a member of the board.

Added by Acts 2001, 77th Leg., ch. 1423, Sec. 38, eff. June 17, 2001.

Renumbered from Local Government Code, Section 402.909 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.910. AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS FOR COLLECTION OF PAST DUE UTILITY OR SOLID WASTE DISPOSAL SERVICE FEES. (a) A municipality that operates a utility system, as defined by Section 552.001, or provides solid waste disposal services may enter an agreement for the collection of unpaid utility charges or solid waste disposal services fees with:

(1) another municipality that operates a utility system;

(2) a county or public agency that provides solid waste disposal services; or

(3) another political subdivision acting on behalf of a municipality, county, or public agency to assist in the collection of unpaid utility charges or solid waste disposal fees.

(b) The agreement may provide that a municipality:

(1) may refuse to provide utility service to a person if the person is past due on utility charges or solid waste disposal services fees owed to another party to the agreement; or

(2) may collect an amount equal to the past due utility charges or solid waste disposal services fees owed to another party to the agreement plus a service charge and provide the utility service the person requests.

(c) The agreement shall provide for:

(1) the confidentiality of a person's utility or solid waste disposal account information and the prevention of disclosure to a person or other entity that is not a party to the agreement; and

(2) the apportionment of any past due charges, fees, and service charges authorized by Subsection (b)(2) between the

collecting entity and the entity to which the fees are owed.

Added by Acts 2003, 78th Leg., ch. 271, Sec. 1, eff. June 18, 2003.

Renumbered from Local Government Code, Section 402.910 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(13), eff. April 1, 2009.

Sec. 552.911. DUTIES OF WATER SERVICE PROVIDER TO AN AREA SERVED BY SEWER SERVICE OF CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to an area:

(1) that is located in a county that has a population of more than 1.3 million; and

(2) in which a customer's sewer service is provided by a municipality or conservation and reclamation district that also provides water service to other customers and the same customer's water service is provided by another entity.

(b) For each person the water service provider serves in an area to which this section applies, the water service provider shall provide the municipality or district with any relevant customer information so that the municipality or district may bill users of the sewer service directly and verify the water consumption of users. Relevant customer information provided under this section includes the name, address, and telephone number of the customer of the water service provider, the monthly meter readings of the customer, monthly consumption information, including any billing adjustments, and certain meter information, such as brand, model, age, and location.

(c) The municipality or district shall reimburse the water service provider for its reasonable and actual incremental costs for providing services to the municipality or district under this section. Incremental costs are limited to only those costs that are in addition to the water service provider's costs in providing its services to its customers, and those costs must be consistent with the costs incurred by other water utility providers. Only if requested by the wastewater provider, the water service provider

must provide the municipality or district with documentation certified by a certified public accountant of the reasonable and actual incremental costs for providing services to the municipality or district under this section.

(d) A municipality or conservation and reclamation district may provide written notice to a person to whom the municipality's or district's sewer service system provides service if the person has failed to pay for the service for more than 90 days. The notice must state the past due amount owed and the deadline by which the past due amount must be paid or the person will lose water service. The notice may be sent by mail or hand-delivered to the location at which the sewer service is provided.

(e) The municipality or district may notify the water service provider of a person who fails to make timely payment after the person receives notice under Subsection (d). The notice must indicate the number of days the person has failed to pay for sewer service and the total amount past due. On receipt of the notice, the water service provider shall discontinue water service to the person.

(f) This section does not apply to a nonprofit water supply or sewer service corporation created under Chapter 67, Water Code, or a district created under Chapter 65, Water Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. 3), Sec. 2.32, eff. September 1, 2007.

Transferred from Local Government Code, Section 402.911 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(68), eff. September 1, 2009.

Sec. 552.912. CERTAIN DAMAGES CAUSED BY SEWAGE BACKUP. (a) A municipality or a river authority, other than a river authority listed in Subsection (c), may pay actual property damages caused by the backup of the municipality's or river authority's sanitary sewer system regardless of whether the municipality or river authority would be liable for the damages under Chapter 101, Civil Practice and Remedies Code.

(b) This section does not waive governmental immunity from suit or liability.

(c) This section does not apply to the Trinity River Authority, the San Jacinto River Authority, the Sabine River Authority, or the Lower Neches Valley River Authority.

Added by Acts 2009, 81st Leg., R.S., Ch. 1119 (H.B. 1174), Sec. 1, eff. June 19, 2009.

Sec. 552.913. COMBINED HEATING AND POWER SYSTEMS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a home-rule municipality that:

(1) has a population of more than 100,000;

(2) owns and operates an electric utility that is a member of a municipal power agency; and

(3) is located in a county adjacent to a county with a population of more than 2.5 million.

(b) To the extent this section conflicts with a municipal charter provision, this section controls.

(c) A municipality may buy, own, construct, maintain, and operate a combined heating and power system or plant and related infrastructure.

(d) The governing body of the municipality may designate a combined heating and power economic development district that includes territory that:

(1) is within three miles of the combined heating and power plant;

(2) is wholly located within the corporate boundaries of the municipality; and

(3) does not have an interstate or federal highway located within the boundaries of the district on the date the territory is designated.

(e) The municipality may sell an energy commodity from the system or plant, including electricity, chilled water, steam, or gas. The municipality may sell gas only to industrial customers located in the combined heating and power economic development district.

(f) The municipality shall assess fees against a municipal entity selling gas to industrial customers in the combined heating and power economic district that are substantially the same as the

fees assessed against a gas utility that is not owned by the municipality for occupation of a municipal right-of-way.

Added by Acts 2011, 82nd Leg., R.S., Ch. 38 (S.B. 1230), Sec. 1, eff. May 9, 2011.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 199, eff. September 1, 2023.

Sec. 552.914. UTILITY CONTRACTS FOR CERTAIN MUNICIPALITIES. (a) In this section, "utility system" means an electric, water, sewer, solid waste disposal, drainage utility, or natural gas system, or any combination of those systems.

(b) This section applies only to a municipality described by Section 1502.070(a)(2)(C), Government Code.

(c) Notwithstanding any limitation provided by a home rule charter, the governing body, board of trustees, or other entity vested with the management and control of the municipality's utility system may contract for the purchase of electricity under terms the governing body, board of trustees, or other entity considers appropriate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 98 (S.B. 795), Sec. 2, eff. May 18, 2013.

Sec. 552.915. RECORDS OF MUNICIPALLY OWNED ELECTRIC UTILITY PROVIDING BROADBAND SERVICES. (a) In this section, "broadband service" has the meaning assigned by Section 181.048, Utilities Code.

(b) This section applies only to a municipally owned utility that:

(1) provides electricity and broadband services; and

(2) provided electricity services and cable, Internet, or broadband services on or before January 1, 2003.

(c) A municipally owned utility shall maintain separate books and records of broadband service operations and shall ensure that the rates charged for provision of electric service do not include any broadband service costs or any other costs not related to the provision of electric service.

Added by Acts 2023, 88th Leg., R.S., Ch. 1148 (S.B. 983), Sec. 2, eff. September 1, 2023.