LOCAL GOVERNMENT CODE

TITLE 13. WATER AND UTILITIES

SUBTITLE C. WATER PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 572. PUBLIC UTILITY AGENCIES FOR PROVISION OF WATER OR SEWER SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 572.001. DEFINITIONS. In this chapter:

(1) "Facility" means a facility necessary or incidental to the collection, transportation, treatment, or disposal of sewage or to the conservation, storage, transportation, treatment, or distribution of water, including a plant site, right-of-way, and property, equipment, or right of any kind useful in connection with the collection, transportation, treatment, or disposal of sewage or with the conservation, storage, transportation, treatment, or distribution of water.

(2) "Private entity" means an entity, other than a public entity, involved solely in financing, constructing, operating, or maintaining water and sewer facilities.

(3) "Public entity" means a political entity or corporate body of this state, including a county, municipality, or district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.002. EFFECT OF CHAPTER. This chapter does not affect:

(1) the statutory purposes relating to the establishment, operation, or regulation under the Water Code or other applicable law of a public entity that may become a co-owner of a public utility agency under this chapter; or

(2) a public or private entity's rights or powers in

effect on August 27, 1979.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.003. CONSTRUCTION. This chapter shall be liberally construed to carry out its purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.004. CONFLICTS WITH OTHER LAW. This chapter prevails to the extent of a conflict between this chapter and any other law, including:

(1) a law regulating the affairs of a municipal corporation; or

(2) a home-rule charter provision.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

SUBCHAPTER B. COOPERATION BY PUBLIC AND PRIVATE ENTITIES

Sec. 572.011. AUTHORITY TO JOINTLY OWN FACILITIES. Two or more public entities that have the authority to engage in the collection, transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water may join together as cotenants or co-owners to plan, finance, acquire, construct, own, operate, or maintain facilities to:

(1) achieve economies of scale in providing essential water and sewage systems to the public;

(2) promote the orderly economic development of this state; and

(3) provide environmentally sound protection of this state's future water and wastewater needs.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.011 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.012. GENERAL RIGHTS, POWERS, AND DUTIES OF PUBLIC ENTITIES. (a) Each participating public entity may:

(1) use the entity's money to plan, acquire, construct, own, operate, and maintain its interest in a facility;

(2) share in the facility;

(3) issue bonds and other securities to raise money for a purpose described by Subdivision (1) in the same manner and to the same extent and subject to the same conditions as would be applicable if the public entity had sole ownership of the facility;

(4) acquire, for the use and benefit of each participating public entity, land, easements, and property for a facility by purchase or by exercising the power of eminent domain; and

(5) transfer or otherwise convey the land, property, or property interest or otherwise have the land, property, or property interest become vested in other participating public entities to the extent and in the manner agreed between the entities.

(b) In relation to a participating public entity's undivided interest in a facility, the entity has each right, privilege, exemption, power, duty, and liability the entity would have if the entity had sole ownership.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.012 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.013. USE OF EMINENT DOMAIN. (a) A participating public entity has the power of eminent domain to be exercised as provided by this section.

(b) The use of eminent domain authority by a participating public entity is governed by the law relating to an eminent domain proceeding involving a municipality in this state.

(c) A participating public entity may acquire a fee title to the condemned real property, excluding mineral interests.

(d) A participating public entity may not use eminent domain authority to acquire an interest in a facility that belongs to another public entity or a private entity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.013 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.014. EXEMPTION FROM TAXATION. A participating public entity is entitled to each constitutional or statutory ad valorem or other tax exemption attributable to the jointly owned facility or to a property or service bought, sold, leased, or used to construct, maintain, repair, or operate the facility to the extent that the entity would have been exempt from the tax if the entity's undivided interest were an entire interest in the facility or in the property or service. The entity is entitled to any applicable exemption certificate or statement provided by law to claim or prove the exemption.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.014 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

SUBCHAPTER C. PUBLIC UTILITY AGENCIES

Sec. 572.051. DEFINITIONS. In this subchapter:

(1) "Concurrent ordinance" means an ordinance or resolution adopted under this subchapter by two or more public entities.

(2) "Obligation" means a revenue bond or note.

(3) "Public utility agency" means an agency created under this subchapter by two or more public entities to plan,

finance, construct, own, operate, or maintain facilities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.051 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 1, eff. June 17, 2011.

Sec. 572.052. CREATION OF PUBLIC UTILITY AGENCY. (a) Public entities may create a public utility agency by concurrent ordinances.

(b) A public entity may join in the creation of a public utility agency under this subchapter only if, at the time the concurrent ordinance is adopted, the entity has the authority to engage in the collection, transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water. This subsection does not prohibit a public entity from disposing of a facility after creation of the agency.

(c) A public utility agency is a:

(1) separate agency;

(2) political subdivision of this state; and

(3) political entity and corporate body.

(d) A public utility agency may not impose a tax but has all the other powers that are related to facilities and that are provided by law to a municipality that owns a facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.052 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.053. CHANGES IN PUBLIC ENTITIES PARTICIPATING IN PUBLIC UTILITY AGENCY. The public entities that participate in a public utility agency may by concurrent ordinances add a public entity to, or delete a public entity from, participation in the public utility agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.053 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 2, eff. June 17, 2011.

Sec. 572.054. NOTICE. (a) The governing body of each public entity that participates in the creation of a public utility agency shall publish notice of its intention to create the agency in a newspaper of general circulation in the county in which the entity is located.

(a-1) The governing body of a public entity that proposes to be added to an existing public utility agency shall publish notice of its intention to be added to the agency in a newspaper of general circulation in the county in which the entity is located.

(b) A notice under this section must be published once a week for two consecutive weeks. The first publication must appear at least 14 days before the date set for passage of the concurrent ordinance.

(c) The notice must state:

(1) the date, time, and location at which the governing body proposes to adopt the concurrent ordinance; and

(2) that a public utility agency will be created or a public entity will be added to an agency on the date on which the concurrent ordinances take effect, as applicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.054 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 3, eff. June 17, 2011.

Sec. 572.055. CONTENTS OF CONCURRENT ORDINANCE. A concurrent ordinance creating a public utility agency under Section 572.052 or changing the public entities participating in an agency

under Section 572.053 must, as adopted by each public entity:

(1) contain identical provisions;

(2) define the boundaries of the agency to include the territory within the boundaries of each participating public entity as the boundaries are changed periodically;

(3) designate the name of the agency; and

(4) designate the number, place, initial term, and manner of appointment of directors in accordance with Section 572.057.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.055 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(20), eff. April 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 4, eff. June 17, 2011.

Sec. 572.056. PETITION AND REFERENDUM. (a) If, before the date set for the adoption of a concurrent ordinance that creates a public utility agency or adds a public entity to an agency, 10 percent of the registered voters of a public entity required to publish notice of the creation or addition present a petition to the governing body of the entity requesting that a referendum be called, the ordinance may not take effect unless a majority of the qualified voters of the entity voting in the election have approved the ordinance.

(b) The public entity must hold the election in conformity with:

(1) the Election Code;

(2) Chapter 1251, Government Code; and

(3) this subchapter.

(c) Except as provided by Subsection (a), a concurrent ordinance is not subject to a referendum.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.056 by Acts

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 667 (S.B. 1596), Sec. 5, eff. June 17, 2011.

Sec. 572.057. BOARD OF DIRECTORS. (a) A public utility agency shall be governed by a board of directors. The board is responsible for the management, operation, and control of the property belonging to the agency.

(b) Each director must be appointed by place by the governing bodies of the participating public entities. Each participating public entity is entitled to appoint at least one director.

(c) An employee, officer, or member of the governing body of a public entity may serve as a director but may not have a personal interest in a contract executed by the public utility agency other than as an employee, officer, or member of the governing body of the public entity.

(d) A director of a public utility agency is entitled to $50 for each day spent in attending meetings of the board and a per diem of $50 if authorized by resolution of the board, plus actual expenses incurred in attending the meetings.

(e) Except as provided by Subsection (d), a director of a public utility agency serves without compensation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.057 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.058. POWERS. (a) A public utility agency may not engage in any utility business other than the collection, transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water for a participating public entity that owns jointly with the agency a facility in this state.

(b) A public utility agency may:

(1) perform any act necessary to the full exercise of the agency's powers;

(2) enter into a contract, lease, or agreement with or accept a grant or loan from a:

(A) department or agency of the United States;

(B) department, agency, or municipality or other political subdivision of this state; or

(C) public or private corporation or person;

(3) sell, lease, convey, or otherwise dispose of any right, interest, or property the agency considers to be unnecessary for the efficient operation or maintenance of its facilities; and

(4) adopt rules to govern the operation of the agency and its employees, facilities, and service.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.058 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.0585. EMINENT DOMAIN IN CERTAIN COUNTIES. (a) A public utility agency has the power of eminent domain to be exercised in the manner provided by this section. The public utility agency may acquire by condemnation, for the use and benefit of the agency, land, easements, and property inside the service area of the public utility agency, necessary for water, sanitary sewer, storm drainage, or flood drainage or control purposes or for any other of its projects or purposes. The public utility agency may elect to condemn either the fee simple title or a lesser property interest.

(b) The power of eminent domain shall be exercised in the manner provided in Chapter 21, Property Code, except that the public utility agency is not required to:

(1) give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party; or

(2) deposit more than the amount of any award in any suit.

(c) The power of eminent domain may not be used for the condemnation of land for the purpose of acquiring rights to

underground water or of water or water rights.

(d) This section only applies to a public utility agency domiciled in a county with a population of more than 1.2 million.

Added by Acts 2023, 88th Leg., R.S., Ch. 990 (H.B. 4217), Sec. 1, eff. June 18, 2023.

Sec. 572.0586. EXTENSION OF SERVICES. A public utility agency shall hold a public hearing and provide an opportunity for public comment before extending service to new customers located outside the service area identified in the 10-year capital improvements plan adopted in compliance with Chapter 395 that is in effect when an application for extension of service is received.

Added by Acts 2023, 88th Leg., R.S., Ch. 990 (H.B. 4217), Sec. 1, eff. June 18, 2023.

Sec. 572.059. CONSTRUCTION CONTRACTS. (a) A public utility agency may award a contract for construction of an improvement that involves the expenditure of more than $20,000 only on the basis of competitive bids.

(b) The agency shall publish notice of intent to receive bids once a week for two consecutive weeks in a newspaper of general circulation in the county in which the agency is domiciled. The first publication must appear at least 14 days before the date bids are to be received.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 422.059 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.060. CONTRACTS FOR SEWER OR WATER SERVICES. A public utility agency may:

(1) contract with the public entities creating the agency for the collection, transportation, treatment, or disposal of sewage or the conservation, storage, transportation, treatment, or distribution of water; and

(2) under terms the agency's board of directors considers appropriate, contract with private entities for services

described by Subdivision (1).

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.060 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.061. RATES AND CHARGES. (a) In contracting with a public or private entity for wastewater collection, transmission, treatment, or disposal services or for water conservation, storage, transportation, treatment, or distribution, a public utility agency must charge rates sufficient to produce revenue adequate to:

(1) pay all expenses of operation and maintenance;

(2) pay when due the principal of and interest on obligations issued under this subchapter;

(3) pay the principal of and interest on any legal debt of the agency;

(4) pay when due all sinking and reserve fund payments; and

(5) fulfill any agreements made with the holders of any obligations.

(b) A public utility agency may also establish a reasonable depreciation and emergency fund.

(c) Payments made under a contract with a public utility agency constitute an operating expense of the public or private entity served under the contract, unless otherwise prohibited by a previously outstanding obligation of the purchasing entity.

(d) Notwithstanding Subsection (a), the state reserves its power to regulate and control the rates and charges by a public utility agency.

(e) Until obligations issued under this subchapter have been paid and discharged, this state pledges to and agrees with the purchasers and successive holders of the obligations that it will not limit or alter the powers of the agency to establish and collect rates and charges that will produce revenue sufficient to pay for those items specified in Subsections (a) and (b) and any other obligations of the agency in connection with those items.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 422.061 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.062. OBLIGATIONS. (a) A public utility agency may issue obligations to accomplish the purposes of the agency.

(b) The public utility agency may pledge to the payment of the obligations the revenue of all or part of its facilities, including facilities acquired after the obligations are issued. However, operation and maintenance expenses, including salaries and labor, materials, and repairs of facilities necessary to render efficient service, are a first lien on and charge against the pledged revenue.

(c) The public utility agency may set aside from the proceeds of the sale of the obligations amounts for payment into the interest and sinking fund and reserve fund, and for interest and operating expenses during construction and development, as specified in the proceedings authorizing the obligations.

(d) Obligation proceeds may be invested, pending their use, in securities, interest-bearing certificates, or time deposits as specified in the proceedings authorizing the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 422.062 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.063. REFUNDING NOTES. A public utility agency may issue refunding notes for the purpose and in the manner provided by general law, including Chapter 1207, Government Code.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999.
Renumbered from Local Government Code, Section 422.063 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.

Sec. 572.064. FORM AND PROVISIONS OF OBLIGATIONS. (a) An obligation issued under this subchapter must mature not later than 40 years after its date of issuance.

(b) The obligations must be signed by the presiding officer or assistant presiding officer of the public utility agency and be attested by the secretary.

(c) A public utility agency may sell obligations issued under this subchapter at public or private sale at a price or under the terms the agency determines to be in the best interest of the agency.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 19, eff. Sept. 1, 1999. Renumbered from Local Government Code, Section 422.064 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(c)(2), eff. April 1, 2009.