

1-1 By: Jetton, Troxclair (Senate Sponsor - Creighton) H.B. No. 2815  
 1-2 (In the Senate - Received from the House May 15, 2023;  
 1-3 May 15, 2023, read first time and referred to Committee on Local  
 1-4 Government; May 21, 2023, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
 1-6 May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2815 By: Springer

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the powers, authorities, duties, and responsibilities  
 1-22 of certain conservation and reclamation districts.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 375.022, Local Government Code, is  
 1-25 amended by adding Subsections (d) and (e) to read as follows:

1-26 (d) The petition may request that a succeeding board of  
 1-27 directors be elected under Section 375.0645 instead of being  
 1-28 appointed under Section 375.064.

1-29 (e) On receipt by the commission of a petition that complies  
 1-30 with this section, the commission shall issue a notice indicating  
 1-31 that the petition is administratively complete and may conduct a  
 1-32 hearing on the petition in the manner provided by Section 49.011,  
 1-33 Water Code, if the commission determines that a hearing is  
 1-34 necessary.

1-35 SECTION 2. Section 375.025(c), Local Government Code, is  
 1-36 amended to read as follows:

1-37 (c) If ~~[after the hearing]~~ the commission finds that the  
 1-38 petition is sufficient and conforms to the requirements of Section  
 1-39 375.022(c) and that the district is feasible ~~[and necessary]~~ and  
 1-40 would benefit the public, the commission by order shall make that  
 1-41 finding and grant the petition. In determining if the project is  
 1-42 feasible ~~[and necessary]~~ and would benefit the public, the  
 1-43 commission shall consider:

1-44 (1) the availability of comparable services from other  
 1-45 systems, including special districts, municipalities, and regional  
 1-46 authorities; and

1-47 (2) the reasonableness of the proposed public purpose  
 1-48 projects and services.

1-49 SECTION 3. Subchapter D, Chapter 375, Local Government  
 1-50 Code, is amended by adding Section 375.0645 to read as follows:

1-51 Sec. 375.0645. ELECTION OF DIRECTORS. (a) This section  
 1-52 applies only to a district created by order of the commission  
 1-53 providing for an elected board of directors as requested in the  
 1-54 petition requesting creation of the district as provided by Section  
 1-55 375.022(d).

1-56 (b) The commission shall appoint the initial directors  
 1-57 under Section 375.026, and subsequent directors are elected in the  
 1-58 manner provided by Subchapter D, Chapter 49, Water Code.

1-59 (c) An elected director is entitled to receive fees of  
 1-60 office and reimbursement for actual expenses as provided by Section

2-1 49.060, Water Code.  
 2-2 (d) Sections 375.069 and 375.070 do not apply to an elected  
 2-3 director.  
 2-4 (e) Section 49.052(f), Water Code, does not exempt an  
 2-5 elected director from disqualification under that section.  
 2-6 (f) Sections 375.064, 375.161, and 375.243 do not apply to a  
 2-7 district with an elected board.  
 2-8 SECTION 4. Section 375.065, Local Government Code, is  
 2-9 amended to read as follows:  
 2-10 Sec. 375.065. REMOVAL OF DIRECTOR. The governing body of  
 2-11 the municipality after notice and hearing may remove a director  
 2-12 appointed by the municipality for misconduct or failure to carry  
 2-13 out the director's duties on petition by a majority of the remaining  
 2-14 directors.  
 2-15 SECTION 5. Section 375.067(a), Local Government Code, is  
 2-16 amended to read as follows:  
 2-17 (a) As soon as practicable after a director is appointed or  
 2-18 elected as provided by this subchapter, the director shall execute  
 2-19 a \$10,000 bond payable to the district and conditioned on the  
 2-20 faithful performance of the director's duties.  
 2-21 SECTION 6. Section 375.068, Local Government Code, is  
 2-22 amended to read as follows:  
 2-23 Sec. 375.068. OFFICERS. After directors are appointed or  
 2-24 elected as provided by this subchapter and have qualified by  
 2-25 executing a bond and taking the oath, they shall organize by  
 2-26 electing a president, a vice-president, a secretary, and any other  
 2-27 officers the board considers necessary.  
 2-28 SECTION 7. Section 375.071, Local Government Code, is  
 2-29 amended to read as follows:  
 2-30 Sec. 375.071. QUORUM. (a) One-half of the serving  
 2-31 directors constitutes a quorum, and a concurrence of a majority of a  
 2-32 quorum of directors is required for any official action of the  
 2-33 district.  
 2-34 (b) If at least two-thirds of the directors execute a  
 2-35 written consent at any time, a majority of a quorum at a board  
 2-36 meeting may [~~The written consent of at least two-thirds of the~~  
 2-37 ~~directors is required to~~] authorize the levy of assessments, the  
 2-38 levy of taxes, the imposition of impact fees, or the issuance of  
 2-39 bonds. A director may execute a written consent outside of a board  
 2-40 meeting.  
 2-41 SECTION 8. Section 375.161(b), Local Government Code, is  
 2-42 amended to read as follows:  
 2-43 (b) This section does not apply to a tax or assessment, if a  
 2-44 tax is authorized or approved by the voters of the district, or to a  
 2-45 required payment for a service provided by the district, including  
 2-46 water and sewer services.  
 2-47 SECTION 9. Section 375.208, Local Government Code, is  
 2-48 amended to read as follows:  
 2-49 Sec. 375.208. COMMISSION APPROVAL. A district must obtain  
 2-50 approval of the commission as provided by Section 49.181 [~~Chapter~~  
 2-51 ~~54~~], Water Code, only if the [~~it issues~~] bonds are to provide water,  
 2-52 sewage, or drainage facilities. [~~Except as expressly provided by~~  
 2-53 ~~this section and Sections 375.062 and 375.064, a district is not~~  
 2-54 ~~subject to the jurisdiction of the commission.~~]  
 2-55 SECTION 10. Section 49.011(a), Water Code, is amended to  
 2-56 read as follows:  
 2-57 (a) On receipt by the commission of all required  
 2-58 documentation associated with an application for creation of a  
 2-59 district by the commission under Chapter 36, 50, 51, 54, 55, 58, 65,  
 2-60 or 66 of this code or Chapter 375, Local Government Code, the  
 2-61 commission shall issue a notice indicating that the application is  
 2-62 administratively complete.  
 2-63 SECTION 11. Section 49.060, Water Code, is amended by  
 2-64 amending Subsection (a) and adding Subsection (a-2) to read as  
 2-65 follows:  
 2-66 (a) A director is entitled to receive fees of office [~~of not~~  
 2-67 ~~more than \$150 a day~~] for each day the director actually spends  
 2-68 performing the duties of a director. The board by resolution shall  
 2-69 set the fees of office. The board may not set the fees of office at

3-1 an amount greater than the amount of the per diem set by the Texas  
 3-2 Ethics Commission for members of the legislature under Section 24a,  
 3-3 Article III, Texas Constitution. In this subsection, "performing  
 3-4 the duties of a director" means substantive performance of the  
 3-5 management or business of the district, including participation in  
 3-6 board and committee meetings and other activities involving the  
 3-7 substantive deliberation of district business and in pertinent  
 3-8 educational programs. The phrase does not include routine or  
 3-9 ministerial activities such as the execution of documents,  
 3-10 self-preparation for meetings, or other activities requiring a  
 3-11 minimal amount of time.

3-12 (a-2) Notwithstanding Subsection (a-1), an authority  
 3-13 created by special law, by resolution of the board, may not set the  
 3-14 annual limit on the fees of office described by that subsection at  
 3-15 an amount greater than the amount a director would receive for 60  
 3-16 days of service a year at the maximum daily rate authorized by  
 3-17 Subsection (a).

3-18 SECTION 12. Section 49.065, Water Code, is amended by  
 3-19 adding Subsection (d) to read as follows:

3-20 (d) Subsection (b) applies to a personal e-mail address of a  
 3-21 director only if the district does not make available to the public  
 3-22 an official e-mail address for the director or the district. In  
 3-23 this subsection, "personal e-mail address" means an e-mail address  
 3-24 that is not paid for by district money and is not used primarily for  
 3-25 the transaction of official business of the district.

3-26 SECTION 13. Section 49.102, Water Code, is amended by  
 3-27 amending Subsection (j) and adding Subsections (k) and (l) to read  
 3-28 as follows:

3-29 (j) The provisions of this section requiring a confirmation  
 3-30 election do not apply to a [~~shall not be applicable to any~~] district  
 3-31 exercising the powers of Chapter 375, Local Government Code, or any  
 3-32 district created by a special Act of the legislature that does not  
 3-33 require a confirmation election.

3-34 (k) Notwithstanding any other law, if the board determines  
 3-35 that it is in the best interest of the district and the voters of the  
 3-36 district for the district to administer an election under this  
 3-37 section, the district shall establish precincts and designate  
 3-38 polling locations inside the boundaries of the district.

3-39 (l) Section 43.075, Local Government Code, does not apply to  
 3-40 a district until the board declares the district is created under  
 3-41 Subsection (e) of this section.

3-42 SECTION 14. Section 49.106, Water Code, is amended by  
 3-43 amending Subsection (e) and adding Subsection (f) to read as  
 3-44 follows:

3-45 (e) A district's authorization to issue bonds resulting  
 3-46 from an election held under this section, or any other law that  
 3-47 allows for the qualified voters of a district to authorize the  
 3-48 issuance of bonds by a district, remains in effect after the  
 3-49 election unless the district is dissolved [~~or is annexed by another~~  
 3-50 district].

3-51 (f) The board may submit new bond authorization and  
 3-52 refunding bond authorization in a single proposition at an  
 3-53 election.

3-54 SECTION 15. Section 49.181, Water Code, is amended by  
 3-55 adding Subsection (f-1) to read as follows:

3-56 (f-1) For the purposes of evaluating the financial  
 3-57 feasibility of a project financed by a bond, the commission shall  
 3-58 consider:

3-59 (1) a district located wholly or partly in Austin,  
 3-60 Brazos, Chambers, Grimes, Liberty, Walker, or Wharton County as if  
 3-61 the district were located in Harris County; and

3-62 (2) a district located wholly or partly in Bastrop,  
 3-63 Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, or Milam  
 3-64 County as if the district were located in Travis County.

3-65 SECTION 16. Section 49.23602(c), Water Code, is amended to  
 3-66 read as follows:

3-67 (c) If the board of a district adopts a combined debt  
 3-68 service, contract, and operation and maintenance tax rate that  
 3-69 exceeds the district's mandatory tax election rate, an election

4-1 must be held in accordance with the procedures provided by Sections  
4-2 26.07(c)-(g), Tax Code, to determine whether to approve the adopted  
4-3 tax rate. If the adopted tax rate is not approved at the election,  
4-4 the district's tax rate is the voter-approval tax rate. An election  
4-5 is not required if the adopted tax rate is less than or equal to the  
4-6 voter-approval tax rate.

4-7 SECTION 17. Section 49.271, Water Code, is amended by  
4-8 amending Subsection (e) and adding Subsection (f) to read as  
4-9 follows:

4-10 (e) A [~~district~~] contract for construction work may include  
4-11 economic incentives for early completion of the work or economic  
4-12 disincentives for late completion of the work.

4-13 (f) The provisions of this section apply to a contract for  
4-14 construction work entered into by a third party on behalf of a  
4-15 district.

4-16 SECTION 18. Subchapter J, Chapter 49, Water Code, is  
4-17 amended by adding Section 49.316 to read as follows:

4-18 Sec. 49.316. DIVISION OF DISTRICT. (a) The board, on its  
4-19 own motion or on receipt of a petition signed by the owner or owners  
4-20 of a majority of the assessed value of the real property in the  
4-21 district, may adopt an order dividing the district.

4-22 (b) An order dividing a district may create one or more new  
4-23 districts and may provide for the continuation of the district.

4-24 (c) An order dividing the district shall:

4-25 (1) name any new district;

4-26 (2) include the metes and bounds description of the  
4-27 territory of each of the districts;

4-28 (3) appoint temporary directors for any new district;  
4-29 and

4-30 (4) provide for the division of assets and liabilities  
4-31 between the districts.

4-32 (d) The board may adopt an order dividing the district  
4-33 before or after the date the board holds an election to confirm the  
4-34 district's creation.

4-35 (e) The district may be divided only if the district:

4-36 (1) has never issued any bonds; and

4-37 (2) is not imposing ad valorem taxes.

4-38 (f) A new district created by the division of the district  
4-39 may not, at the time the new district is created, contain any land  
4-40 outside the area of the district at the time of creation.

4-41 (g) On or before the 30th day after the date of adoption of  
4-42 an order dividing the district, the district shall file the order  
4-43 with the commission and record the order in the real property  
4-44 records of each county in which the district is located.

4-45 (h) A new district created by the division of the district  
4-46 shall hold a confirmation and directors' election.

4-47 (i) If the creation of a new district is confirmed, the new  
4-48 district shall provide the election date and results to the  
4-49 commission.

4-50 (j) A new district created by the division of the district  
4-51 must hold an election as required by this chapter to obtain voter  
4-52 approval before the district may impose a maintenance tax or issue  
4-53 bonds payable wholly or partly from ad valorem taxes.

4-54 (k) Municipal consent to the creation of the district and to  
4-55 the inclusion of land in the district acts as municipal consent to  
4-56 the creation of any new district created by the division of the  
4-57 district and to the inclusion of land in the new district.

4-58 (l) The district may continue to rely on confirmation,  
4-59 directors', bond, and tax elections held before the division.

4-60 SECTION 19. Subchapter O, Chapter 51, Water Code, is  
4-61 amended by adding Section 51.7131 to read as follows:

4-62 Sec. 51.7131. ALTERNATIVE SUBSTITUTION PROCEDURES.  
4-63 Notwithstanding this subchapter, a district may substitute land in  
4-64 the manner provided by Sections 54.739-54.747.

4-65 SECTION 20. Section 53.029(e), Water Code, is amended to  
4-66 read as follows:

4-67 (e) A district that has adopted the rights, authority,  
4-68 privileges, and functions of a road district in the manner provided  
4-69 by Subsection (c) may, following approval of a construction

5-1 contract by the district's governing body, reimburse expenditures  
5-2 as provided by Sections 257.003(a), ~~[and]~~ (b), and (d),  
5-3 Transportation Code, without any additional approval or  
5-4 determination under Section 257.003, Transportation Code.

5-5 SECTION 21. Section 54.016, Water Code, is amended by  
5-6 adding Subsection (f-1) to read as follows:

5-7 (f-1) An agreement between a municipality and a municipal  
5-8 utility district is an allocation agreement only if:

5-9 (1) the agreement strictly complies with the  
5-10 requirements of Subsection (f); and

5-11 (2) the agreement is specifically designated by the  
5-12 parties to the agreement as an "allocation agreement" under  
5-13 Subsection (f).

5-14 SECTION 22. Sections 54.234(d) and (e), Water Code, are  
5-15 amended to read as follows:

5-16 (d) If the commission issues an order approving the  
5-17 petition, the district may undertake a road project if:

5-18 (1) the municipality or county with platting  
5-19 jurisdiction [that will operate and maintain the road] has approved  
5-20 the plans and specifications of the road project; or

5-21 (2) the Texas Transportation Commission has approved  
5-22 the plans and specifications of the road project, if the state is to  
5-23 operate and maintain the road.

5-24 (e) Notwithstanding any other law and except [Except] as  
5-25 provided by Subsection (d), a district is not required to obtain  
5-26 approval from the Texas Transportation Commission to acquire,  
5-27 construct, convey, or finance the road project.

5-28 SECTION 23. Section 57.053, Water Code, is amended by  
5-29 amending Subsection (a) and adding Subsection (d) to read as  
5-30 follows:

5-31 (a) A vacancy on an appointed board is filled by the  
5-32 appointment of a director by a majority vote of the commissioners  
5-33 court. ~~[A director appointed to fill a vacancy must be a person~~  
5-34 ~~qualified for election as a director under Section 57.059.]~~ The  
5-35 commissioners court shall appoint directors so that the board will  
5-36 always have full membership.

5-37 (d) A director appointed to fill a vacancy must be a person  
5-38 qualified to serve as a director under Section 57.059.

5-39 SECTION 24. Section 57.059, Water Code, is amended to read  
5-40 as follows:

5-41 Sec. 57.059. QUALIFICATIONS FOR ~~[ELECTED]~~ DIRECTORS. To be  
5-42 qualified to serve [for election] as a director, a person must:

5-43 (1) be at least 18 years old;

5-44 (2) own land subject to taxation in the district or be  
5-45 a qualified voter in the district; [property taxpaying elector of  
5-46 the precinct and county from which he is elected] and

5-47 (3) if the director is elected, be a qualified voter of  
5-48 the precinct in the district established by the commissioners court  
5-49 under Section 57.058 from which the director is elected [be  
5-50 eligible under the constitution and laws of this state to hold the  
5-51 office to which he is elected].

5-52 SECTION 25. The following provisions are repealed:

5-53 (1) Sections 375.023 and 375.024, Local Government  
5-54 Code;

5-55 (2) Sections 375.025(a) and (b), Local Government  
5-56 Code;

5-57 (3) Section 54.030(b), Water Code, as amended by  
5-58 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
5-59 Session, 2019;

5-60 (4) Section 54.032(a), Water Code, as amended by  
5-61 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
5-62 Session, 2019;

5-63 (5) Section 54.033(a), Water Code, as amended by  
5-64 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
5-65 Session, 2019; and

5-66 (6) Section 54.103, Water Code.

5-67 SECTION 26. This Act takes effect immediately if it  
5-68 receives a vote of two-thirds of all the members elected to each  
5-69 house, as provided by Section 39, Article III, Texas Constitution.

6-1 If this Act does not receive the vote necessary for immediate  
6-2 effect, this Act takes effect September 1, 2023.

6-3

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