

By: Creighton

S.B. No. 2521

A BILL TO BE ENTITLED

AN ACT

relating to the powers, authorities, duties, and responsibilities of water districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.059, Water Code, is amended to read as follows:

Sec. 57.059. QUALIFICATIONS FOR ~~ELECTED~~ DIRECTORS. To be qualified ~~[for election]~~ as a director, a person must be at least 18 years old, either own land subject to taxation in the district or be a qualified voter within the district, [property taxpaying elector of the precinct and county from which he is elected] and, in the case of an elected director, be a qualified voter within the precinct within the district established by the commissioners court in accordance with Section 57.058 ~~[eligible under the constitution and laws of this state to hold the office to which he is elected]~~.

SECTION 2. Section 57.053, Water Code, is amended by amending subsection (a) and adding subsection (d) to read as follows:

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

1       (d) A director appointed to fill a vacancy must be a person  
2 qualified as a director under Section 57.059.

3       SECTION 3. Subchapter J, Chapter 49, Water Code, is amended  
4 by adding Section 49.316, Water Code, to read as follows:

5       Sec. 49.316. DIVISION OF DISTRICT. (a) The board, on its  
6 own motion or on receipt of a petition signed by the owner or owners  
7 of a majority of the assessed value of the real property in the  
8 district, may adopt an order dividing the district.

9       (b) An order dividing a district may create one or more new  
10 districts and may provide for the continuation of the district.

11       (c) An order dividing the district shall:

12           (1) name any new district;

13           (2) include the metes and bounds description of the  
14 territory of each of the districts;

15           (3) appoint temporary directors for any new district;

16 and

17           (4) provide for the division of assets and liabilities  
18 between the districts.

19       (d) The board may adopt an order dividing the district  
20 before or after the date the board holds an election to confirm the  
21 district's creation.

22       (e) The district may be divided only if the district:

23           (1) has never issued any bonds; and

24           (2) is not imposing ad valorem taxes.

25       (f) A new district created by the division of the district  
26 may not, at the time the new district is created, contain any land  
27 outside the area of the district at the time of creation.

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

5       (h) A new district created by the division of the district  
6 shall hold a confirmation and directors' election.

7       (j) If the creation of a new district is confirmed, the new  
8 district shall provide the election date and results to the  
9 commission.

10       (k) Any new district created by the division of the district  
11 must hold an election as required by this chapter to obtain voter  
12 approval before the district may impose a maintenance tax or issue  
13 bonds payable wholly or partly from ad valorem taxes.

14       (l) The district may continue to rely on confirmation,  
15 directors', bond, and tax elections held prior to the division.

16       (m) Municipal consent to the creation of the district and to  
17 the inclusion of land in the district acts as municipal consent to  
18 the creation of any new district created by the division of the  
19 district and to the inclusion of land in the new district.

20       SECTION 4. Subsection 49.011(a), Water Code, is amended to  
21 read as follows:

22       (a) On receipt by the commission of all required  
23 documentation associated with an application for creation of a  
24 district by the commission under Chapter 36, 50, 51, 54, 55, 58, 65,  
25 or 66, or Chapter 375, Local Government Code, the commission shall  
26 issue a notice indicating that the application is administratively  
27 complete.

1 SECTION 5. Section 49.060, Water Code, is amended by  
2 amending subsections (a) and (a-1) and adding subsections (a-2) and  
3 (a-3) to read as follows:

4 (a) A director is entitled to receive fees of office [~~of not~~  
5 ~~more than \$150 a day~~] for each day the director actually spends  
6 performing the duties of a director. The daily fee of office shall  
7 be set by resolution of the board and may not be more than the  
8 legislative per diem as set by the Texas Ethics Commission. In this  
9 subsection, "performing the duties of a director" means substantive  
10 performance of the management or business of the district,  
11 including participation in board and committee meetings and other  
12 activities involving the substantive deliberation of district  
13 business and in pertinent educational programs. The phrase does  
14 not include routine or ministerial activities such as the execution  
15 of documents, self-preparation for meetings, or other activities  
16 requiring a minimal amount of time.

17 (a-2) Notwithstanding subsection (a-1), an authority  
18 created by special law that implements a groundwater reduction plan  
19 and is a wholesale water supplier may not set the annual limit at an  
20 amount greater than the amount that would be produced by 60 days of  
21 service per year at the maximum daily rate.

22 SECTION 6. Subsection 49.065 is amended by adding  
23 subsection (d) to read as follows:

24 (d) Subsection (b) does not apply to a personal email  
25 address of a director. In this subsection, a "personal email  
26 address" means an email address not paid for by public funds and not  
27 primarily used in the transaction of official business as long as an

1 official email address is made publicly available for the director  
2 or for the governmental body.

3 SECTION 7. Section 49.102, Water Code, is amended by  
4 amending subsection (j) and by adding subsection (k) to read as  
5 follows:

6 (j) The provisions of this section requiring a confirmation  
7 election shall not be applicable to any district exercising the  
8 powers of Chapter 375, Local Government Code, or any district  
9 created by a special Act of the legislature that does not require a  
10 confirmation election.

11 (k) The board shall consider the conduct and administration  
12 of the confirmation election and the other district elections held  
13 on the same date. If the board determines that it is in the best  
14 interest of the district and voters of the district for the district  
15 to administer the elections, the district shall establish precincts  
16 and designate polling locations inside the district's boundaries,  
17 notwithstanding any other law.

18 SECTION 8. Section 49.106, Water Code, is amended to add  
19 subsection (f) to read as follows:

20 (f) The board may submit new money bond authorization and  
21 refunding bond authorization in a single proposition at an  
22 election.

23 SECTION 9. Subchapter H, Chapter 49, Water Code, is amended  
24 by adding Section 49.2225 to read as follows:

25 Sec. 49.2225. LIMITATION ON USE OF EMINENT DOMAIN. A  
26 district operating under Chapters 51, 53, and 54 may not exercise  
27 the power of eminent domain outside the district boundaries to

1 acquire:

2 (1) a site for a water treatment plant or a wastewater  
3 treatment plant, unless the engineer for the district makes a  
4 recommendation, based on the engineer's professional judgment, to  
5 acquire the site;

6 (2) a site for a park or recreational facility, as  
7 defined by Section 49.462;

8 (3) an exclusive easement through a county regional  
9 park; or

10 (4) a site, right of way, or easement for a road  
11 project.

12 SECTION 10. Section 49.23602, Water Code, is amended by  
13 adding subsection (c-1) to read as follows:

14 (c-1) An election under subsection (c) is not required if  
15 the adopted tax rate is less than or equal to the voter-approval tax  
16 rate.

17 SECTION 11. Subchapter 0, Chapter 51, Water Code, is  
18 amended by adding Section 51.7131 to read as follows:

19 Sec. 51.7131. ALTERNATIVE SUBSTITUTION PROCEDURES. In the  
20 alternative to the provisions of this subchapter for the  
21 substitution of land within the district, a district may substitute  
22 land in the manner provided by Sections 54.739 through 54.747,  
23 Water Code.

24 SECTION 12. Section 51.714, Water Code, is amended to read  
25 as follows:

26 Sec. 51.714. ADDING LAND BY PETITION OF LANDOWNER. The  
27 owner of land may file with the board a petition requesting that the

1 land described by metes and bounds in the petition be included in  
2 the district. Notwithstanding any municipal ordinance, resolution,  
3 or any other statute to the contrary, a municipality may not require  
4 the annexing district or the landowner who is requesting annexation  
5 to obtain the municipality's consent to the district's annexation  
6 of the additional land if, at the time the petition is filed, the  
7 land to be annexed is contiguous to the district and at any time  
8 within the preceding 12 months was not located within an area  
9 designated by ordinance or resolution of the municipality's  
10 governing body as the municipality's water and sewer service area  
11 or corporate limits, and the district has not previously issued any  
12 bonded indebtedness. The land shall be deemed to be contiguous to  
13 the district if it is separated from the district by public land or  
14 right of way. A district may not increase its total land area by  
15 more than 100 percent in any one calendar year under this section. A  
16 municipality's consent shall not be required for the inclusion or  
17 annexation of irrigable land within the boundaries of a district  
18 primarily engaged in providing irrigation service to lands within  
19 its boundaries.

20 SECTION 13. Section 54.728, Water Code, is amended to read  
21 as follows:

22 Sec. 54.728. CONSOLIDATION OF DISTRICTS. (a) Two or more  
23 districts governed by the provisions of this chapter may  
24 consolidate into one district as provided by Sections 54.729-54.733  
25 of this code.

26 (b) One or more districts governed by the provisions of this  
27 chapter and one or more districts governed by the provisions of

1 Chapter 375, Local Government Code, may consolidate into one  
2 district as provided by this subsection and Sections 54.729- 54.733  
3 of this code. Directors of the consolidated district shall be  
4 elected and serve terms as provided by Section 49.103. The  
5 consolidation agreement may provide that the consolidated district  
6 continue operating with the powers, authorities, duties, and  
7 responsibilities of one of the original districts prior to  
8 consolidation.

9 SECTION 14. Section 375.022, Local Government Code, is  
10 amended by adding Subsections (d) and (e) to read as follows:

11 (d) A petition may request that succeeding boards be elected  
12 under Section 375.0645 rather than be appointed under Section  
13 375.064.

14 (e) The commission shall give notice of an application as  
15 required by Section 49.011, Water Code, and may conduct a hearing on  
16 the application if the commission determines that a hearing is  
17 necessary under Section 49.011, Water Code.

18 SECTION 15. Subsection 375.025(c), Local Government Code is  
19 amended to read as follows:

20 (c) If [~~after the hearing~~] the commission finds that the  
21 petition is sufficient and conforms to the requirements of Section  
22 375,022(c) and that the district is feasible [~~and necessary~~] and  
23 would benefit the public, the commission by order shall make that  
24 finding and grant the petition. In determining if the project is  
25 feasible [~~and necessary~~] and would benefit the public, the  
26 commission shall consider:

27 (1) the availability of comparable services from other



1 systems, including special districts, municipalities, and regional  
2 authorities; and

3 (2) the reasonableness of the proposed public purpose  
4 projects and services.

5 SECTION 16. Subchapter D, Chapter 375, Local Government  
6 Code, is amended by adding Section 375.0645 to read as follows:

7 Sec. 375.0645. ELECTED DIRECTORS. (a) This section  
8 applies to a district created by order of the commission providing  
9 for an elected board of directors as requested in the petition of  
10 the landowner under Section 375.022.

11 (b) The commission shall appoint the initial directors.

12 (c) Subsequent directors shall be elected in the manner  
13 provided by Subchapter D, Chapter 49, Water Code.

14 (d) A director is entitled to receive fees of office and  
15 reimbursement for actual expenses as provided by Section 49.060,  
16 Water Code. Sections 375.069 and 375.070 do not apply to the board.

17 (e) Subsection 49.052(f), Water Code, does not exempt a  
18 director from disqualification under Section 49.052, Water Code.

19 (f) Sections 375.064, 375.161 and 375.243 do not apply to  
20 the district.

21 SECTION 17. Section 375.065, Local Government Code is  
22 amended to read as follows: REMOVAL OF DIRECTOR. The governing  
23 body of the municipality after notice and hearing may remove a  
24 director appointed by that municipality for misconduct or failure  
25 to carry out the director's duties on petition by a majority of the  
26 remaining directors.

27 SECTION 18. Section 375.071, Local Government Code is

1 amended to read as follows:

2       (a) One-half of the serving directors constitutes a quorum,  
3 and a concurrence of a majority of a quorum of directors is required  
4 for any official action of the district.

5       (b) The written consent of at least two-thirds of the  
6 directors is required to authorize the levy of assessments, the  
7 levy of taxes, the imposition of impact fees, or the issuance of  
8 bonds, which may be authorized by a simple majority of a quorum at a  
9 board meeting. A director who was not present at a board meeting  
10 may execute a written consent outside of a board meeting.

11       SECTION 19. Subsection 375.161(b), Local Government Code,  
12 is amended to read as follows:

13       (b) This section does not apply to a tax or assessment, if a  
14 tax is authorized or approved by the voters of the district, or a  
15 required payment for a service provided by the district, including  
16 water and sewer services.

17       SECTION 20. Section 375.208, Local Government Code is  
18 amended to read as follows:

19       A district must obtain approval of the commission to issue  
20 bonds as provided by Section 49.181, [~~Chapter 54,~~] Water Code, if  
21 the [~~it issues~~] bonds are to provide water, sewage, or drainage  
22 facilities. [~~Except as expressly provided by this section and~~  
23 ~~Sections 375.062 and 375.064, a district is not subject to the~~  
24 ~~jurisdiction of the commission.~~]

25       SECTION 21. The following sections are repealed:

26       (a) Sections 375.023 and 375.024 and Subsections 375.025(a)  
27 and (b), Local Government Code;

1 (b) Subsection 54.030(b), as amended by Acts 2019, 86th  
2 Leg., R.S., Ch. 539 (H.B. 2914), Sec. 2;

3 (c) Subsection 54.032(a), as amended by Acts 2019, 86th  
4 Leg., R.S., Ch. 539 (H.B. 2914), Sec. 3;

5 (d) Subsection 54.033(a), as amended by Acts 2019, 86th  
6 Leg., R.S., Ch. 539 (H.B. 2914), Sec. 4;

7 (e) Section 54.103, Water Code; and

8 (f) Section 54.209.

9 SECTION 22. The Texas Commission on Environmental Quality  
10 shall evaluate the economic feasibility of bonds issued by water  
11 districts in whole or in part in (i) Chambers, Liberty, Walker,  
12 Grimes, Brazos, Austin, and Wharton counties the same as the bonds  
13 issued by water districts in Harris County; (ii) Grayson, Wise,  
14 Parker, Hood, Johnson, Ellis, and Hunt counties the same as the  
15 bonds issued by water districts in Dallas County; (iii) Caldwell,  
16 Bastrop, Lee, Milam, Bell, Burnet, Blanco, Gillespie, and Kendall  
17 counties the same as the bonds issued by water districts in Travis  
18 County.

19 SECTION 23. (a) Section 9 of this Act adding Section  
20 49.2225, Water Code, as it applies to districts governed by  
21 Chapters 51 and 53, Water Code, takes effect December 31, 2024, and  
22 as it applies to districts governed by Chapter 54, Water Code, takes  
23 effect September 1, 2023.

24 (b) Except as otherwise provided by this Act, this Act takes  
25 effect immediately if it receives a vote of two-thirds of all the  
26 members elected to each house, as provided by Section 39, Article  
27 III, Texas Constitution. If this Act does not receive the vote

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1 necessary for immediate effect, this Act takes effect September 1,  
2 2023.