

1-1 By: Creighton S.B. No. 2521  
1-2 (In the Senate - Filed March 10, 2023; March 23, 2023, read  
1-3 first time and referred to Committee on Local Government;  
1-4 May 11, 2023, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 11, 2023,  
1-6 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 S.B. No. 2521 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, a majority of a quorum at a board meeting may [The  
2-36 written consent of at least two-thirds of the directors is required  
2-37 to] authorize the levy of assessments, the levy of taxes, the  
2-38 imposition of impact fees, or the issuance of bonds. A director may  
2-39 execute a written consent outside of a board meeting.  
2-40 SECTION 8. Section 375.161(b), Local Government Code, is  
2-41 amended to read as follows:  
2-42 (b) This section does not apply to a tax or assessment that  
2-43 is authorized or approved by the voters of the district or to a  
2-44 required payment for a service provided by the district, including  
2-45 water and sewer services.  
2-46 SECTION 9. Section 375.208, Local Government Code, is  
2-47 amended to read as follows:  
2-48 Sec. 375.208. COMMISSION APPROVAL. A district may not  
2-49 issue bonds to provide funding for [must obtain approval of the  
2-50 commission as provided by Chapter 54, Water Code, if it issues bonds  
2-51 to provide] water, sewage, or drainage facilities unless the  
2-52 commission determines that the project is feasible and issues an  
2-53 order approving the issuance of the bonds in the manner provided by  
2-54 Section 49.181, Water Code. [Except as expressly provided by this  
2-55 section and Sections 375.062 and 375.064, a district is not subject  
2-56 to the jurisdiction of the commission.]  
2-57 SECTION 10. Section 49.011(a), Water Code, is amended to  
2-58 read as follows:  
2-59 (a) On receipt by the commission of all required  
2-60 documentation associated with an application for creation of a  
2-61 district by the commission under Chapter 36, 50, 51, 54, 55, 58, 65,  
2-62 or 66 of this code or Chapter 375, Local Government Code, the  
2-63 commission shall issue a notice indicating that the application is  
2-64 administratively complete.  
2-65 SECTION 11. Section 49.060, Water Code, is amended by  
2-66 amending Subsection (a) and adding Subsection (a-2) to read as  
2-67 follows:  
2-68 (a) A director is entitled to receive fees of office [~~of not~~  
2-69 ~~more than \$150 a day]~~ for each day the director actually spends

3-1 performing the duties of a director. The board by resolution shall  
 3-2 set the fees of office. The board may not set the fees of office at  
 3-3 an amount greater than the amount of the per diem set by the Texas  
 3-4 Ethics Commission for members of the legislature under Section 24a,  
 3-5 Article III, Texas Constitution. In this subsection, "performing  
 3-6 the duties of a director" means substantive performance of the  
 3-7 management or business of the district, including participation in  
 3-8 board and committee meetings and other activities involving the  
 3-9 substantive deliberation of district business and in pertinent  
 3-10 educational programs. The phrase does not include routine or  
 3-11 ministerial activities such as the execution of documents,  
 3-12 self-preparation for meetings, or other activities requiring a  
 3-13 minimal amount of time.

3-14 (a-2) Notwithstanding Subsection (a-1), an authority  
 3-15 created by special law, by resolution of the board, may not set the  
 3-16 annual limit on the fees of office described by that subsection at  
 3-17 an amount greater than the amount a director would receive for 60  
 3-18 days of service a year at the maximum daily rate authorized by  
 3-19 Subsection (a).

3-20 SECTION 12. Section 49.065, Water Code, is amended by  
 3-21 adding Subsection (d) to read as follows:

3-22 (d) Subsection (b) applies to a personal e-mail address of a  
 3-23 director only if the district does not make available to the public  
 3-24 an official e-mail address for the director or the district. In  
 3-25 this subsection, "personal e-mail address" means an e-mail address  
 3-26 that is not paid for by district money and is not used primarily for  
 3-27 the transaction of official business of the district.

3-28 SECTION 13. Section 49.102, Water Code, is amended by  
 3-29 amending Subsection (j) and adding Subsection (k) to read as  
 3-30 follows:

3-31 (j) The provisions of this section requiring a confirmation  
 3-32 election do not apply to a [~~shall not be applicable to any~~] district  
 3-33 exercising the powers of Chapter 375, Local Government Code, or any  
 3-34 district created by a special Act of the legislature that does not  
 3-35 require a confirmation election.

3-36 (k) Notwithstanding any other law, if the board determines  
 3-37 that it is in the best interest of the district and the voters of the  
 3-38 district for the district to administer an election under this  
 3-39 section, the district shall establish precincts and designate  
 3-40 polling locations inside the boundaries of the district.

3-41 SECTION 14. Section 49.106, Water Code, is amended by  
 3-42 adding Subsection (f) to read as follows:

3-43 (f) The board may submit new bond authorization and  
 3-44 refunding bond authorization in a single proposition at an  
 3-45 election.

3-46 SECTION 15. Section 49.181, Water Code, is amended by  
 3-47 adding Subsection (f-1) to read as follows:

3-48 (f-1) For the purposes of evaluating the financial  
 3-49 feasibility of a project financed by a bond, the commission shall  
 3-50 consider:

3-51 (1) a district located wholly or partly in Austin,  
 3-52 Brazos, Chambers, Grimes, Liberty, Walker, or Wharton County as if  
 3-53 the district were located in Harris County; and

3-54 (2) a district located wholly or partly in Bastrop,  
 3-55 Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, or Milam  
 3-56 County as if the district were located in Travis County.

3-57 SECTION 16. Section 49.23602(c), Water Code, is amended to  
 3-58 read as follows:

3-59 (c) If the board of a district adopts a combined debt  
 3-60 service, contract, and operation and maintenance tax rate that  
 3-61 exceeds the district's mandatory tax election rate, an election  
 3-62 must be held in accordance with the procedures provided by Sections  
 3-63 26.07(c)-(g), Tax Code, to determine whether to approve the adopted  
 3-64 tax rate. If the adopted tax rate is not approved at the election,  
 3-65 the district's tax rate is the voter-approval tax rate. An election  
 3-66 is not required if the adopted tax rate is less than or equal to the  
 3-67 voter-approval tax rate.

3-68 SECTION 17. Subchapter J, Chapter 49, Water Code, is  
 3-69 amended by adding Section 49.316 to read as follows:

4-1 Sec. 49.316. DIVISION OF DISTRICT. (a) The board, on its  
 4-2 own motion or on receipt of a petition signed by the owner or owners  
 4-3 of a majority of the assessed value of the real property in the  
 4-4 district, may adopt an order dividing the district.

4-5 (b) An order dividing a district may create one or more new  
 4-6 districts and may provide for the continuation of the district.

4-7 (c) An order dividing the district shall:

4-8 (1) name any new district;

4-9 (2) include the metes and bounds description of the  
 4-10 territory of each of the districts;

4-11 (3) appoint temporary directors for any new district;

4-12 and

4-13 (4) provide for the division of assets and liabilities  
 4-14 between the districts.

4-15 (d) The board may adopt an order dividing the district  
 4-16 before or after the date the board holds an election to confirm the  
 4-17 district's creation.

4-18 (e) The district may be divided only if the district:

4-19 (1) has never issued any bonds; and

4-20 (2) is not imposing ad valorem taxes.

4-21 (f) A new district created by the division of the district  
 4-22 may not, at the time the new district is created, contain any land  
 4-23 outside the area of the district at the time of creation.

4-24 (g) On or before the 30th day after the date of adoption of  
 4-25 an order dividing the district, the district shall file the order  
 4-26 with the commission and record the order in the real property  
 4-27 records of each county in which the district is located.

4-28 (h) A new district created by the division of the district  
 4-29 shall hold a confirmation and directors' election.

4-30 (i) If the creation of a new district is confirmed, the new  
 4-31 district shall provide the election date and results to the  
 4-32 commission.

4-33 (j) A new district created by the division of the district  
 4-34 must hold an election as required by this chapter to obtain voter  
 4-35 approval before the district may impose a maintenance tax or issue  
 4-36 bonds payable wholly or partly from ad valorem taxes.

4-37 (k) Municipal consent to the creation of the district and to  
 4-38 the inclusion of land in the district acts as municipal consent to  
 4-39 the creation of any new district created by the division of the  
 4-40 district and to the inclusion of land in the new district.

4-41 (l) The district may continue to rely on confirmation,  
 4-42 directors', bond, and tax elections held before the division.

4-43 SECTION 18. Subchapter 0, Chapter 51, Water Code, is  
 4-44 amended by adding Section 51.7131 to read as follows:

4-45 Sec. 51.7131. ALTERNATIVE SUBSTITUTION PROCEDURES.  
 4-46 Notwithstanding this subchapter, a district may substitute land in  
 4-47 the manner provided by Sections 54.739-54.747.

4-48 SECTION 19. Section 57.053, Water Code, is amended by  
 4-49 amending Subsection (a) and adding Subsection (d) to read as  
 4-50 follows:

4-51 (a) A vacancy on an appointed board is filled by the  
 4-52 appointment of a director by a majority vote of the commissioners  
 4-53 court. [A director appointed to fill a vacancy must be a person  
 4-54 qualified for election as a director under Section 57.059.] The  
 4-55 commissioners court shall appoint directors so that the board will  
 4-56 always have full membership.

4-57 (d) A director appointed to fill a vacancy must be a person  
 4-58 qualified to serve as a director under Section 57.059.

4-59 SECTION 20. Section 57.059, Water Code, is amended to read  
 4-60 as follows:

4-61 Sec. 57.059. QUALIFICATIONS FOR [ELECTED] DIRECTORS. To be  
 4-62 qualified to serve [for election] as a director, a person must:

4-63 (1) be at least 18 years old;

4-64 (2) own land subject to taxation in the district or be  
 4-65 a qualified voter in the district; [property taxpaying elector of  
 4-66 the precinct and county from which he is elected] and

4-67 (3) if the director is elected, be a qualified voter of  
 4-68 the precinct in the district established by the commissioners court  
 4-69 under Section 57.058 from which the director is elected [be

5-1 ~~eligible under the constitution and laws of this state to hold the~~  
5-2 ~~office to which he is elected].~~

5-3 SECTION 21. The following provisions are repealed:

5-4 (1) Sections 375.023 and 375.024, Local Government  
5-5 Code;

5-6 (2) Sections 375.025(a) and (b), Local Government  
5-7 Code;

5-8 (3) Section 54.030(b), Water Code, as amended by  
5-9 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
5-10 Session, 2019;

5-11 (4) Section 54.032(a), Water Code, as amended by  
5-12 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
5-13 Session, 2019;

5-14 (5) Section 54.033(a), Water Code, as amended by  
5-15 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
5-16 Session, 2019; and

5-17 (6) Section 54.103, Water Code.

5-18 SECTION 22. This Act takes effect immediately if it  
5-19 receives a vote of two-thirds of all the members elected to each  
5-20 house, as provided by Section 39, Article III, Texas Constitution.  
5-21 If this Act does not receive the vote necessary for immediate  
5-22 effect, this Act takes effect September 1, 2023.

5-23 \* \* \* \* \*