

By: Callegari

H.B. No. 1541

A BILL TO BE ENTITLED

AN ACT

relating to the general powers and authority of water districts.

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

SECTION 1. Section 388.005(a), Health and Safety Code, is amended to read as follows:

(a) In this section, "political subdivision" means:

(1) an affected county; or

(2) any political subdivision in a nonattainment area or in an affected county other than:

(A) a school district; or

(B) a district as defined by Section 36.001 or 49.001, Water Code, that had a total annual electricity expense of less than \$200,000 in the previous fiscal year of the district [~~in a nonattainment area or in an affected county~~].

SECTION 2. Section 49.052, Water Code, is amended by adding Subsection (h) to read as follows:

(h) This subsection applies only to a district that is located wholly within the boundaries of a municipality with a population of more than 1.5 million, that is governed by Chapter 375, Local Government Code, and that is governed by an appointed board consisting of nine or more members. Notwithstanding Subsection (f) or (g), a person is considered to have resigned from serving as a member of the board if the person fails to attend three consecutive meetings of the board. The remaining board members by

1 majority vote may waive the resignation under this subsection if
2 fairness requires that the absences be excused on the basis of
3 illness or other good cause.

4 SECTION 3. Section 49.068, Water Code, is amended to read as
5 follows:

6 Sec. 49.068. CONTRACTS WITH GOVERNMENTAL AGENCIES. (a)
7 The provisions of this chapter pertaining to bids and the Local
8 Government Code notwithstanding, a district may purchase property
9 from any governmental entity by negotiated contract without the
10 necessity of securing appraisals or advertising for bids.

11 (b) The provisions of other law or a home-rule municipal
12 charter notwithstanding, a municipality may contract with a
13 district. The term of a contract under this subsection may be of
14 unlimited duration.

15 SECTION 4. Section 49.103, Water Code, is amended by adding
16 Subsection (h) to read as follows:

17 (h) If authorized by the board in the proceedings calling a
18 director election, the secretary of the board or the secretary's
19 designee, on receipt of the certification required by Section
20 2.052(b), Election Code, shall post notice that the election is not
21 to be held. The notice must be posted, on or before the
22 commencement of early voting, at each polling place that would have
23 been used in the election. If the notice is timely posted:

24 (1) the board or the board's designee is not required
25 to:

26 (A) post or publish notice of the election;

27 (B) prepare or print ballots and election

1 materials; or

2 (C) hold early and regular voting; and

3 (2) the board shall meet at the earliest practicable
4 time to declare each unopposed candidate elected to office.

5 SECTION 5. Section 49.106(a), Water Code, is amended to
6 read as follows:

7 (a) Before an election is held to authorize the issuance of
8 bonds, other than refunding bonds, there shall be filed in the
9 office of the district and open to inspection by the public an
10 engineer's report covering the land, improvements, facilities,
11 plants, equipment, and appliances to be purchased or constructed
12 and their estimated cost, together with maps, plats, profiles, and
13 data fully showing and explaining the report. The engineer's
14 report is not:

15 (1) part of the proposition or propositions to be
16 voted on; or

17 (2) a contract with the voters.

18 SECTION 6. Sections 49.153(a) and (e), Water Code, are
19 amended to read as follows:

20 (a) The board, without the necessity of an election, may
21 borrow money on negotiable or nonnegotiable notes of the district
22 to be paid solely from the revenues derived from the ownership of
23 all or any designated part of the district's works, plants,
24 improvements, facilities, or equipment after deduction of the
25 reasonable cost of maintaining and operating the facilities.

26 (e) Subsection (c) does not apply to:

27 (1) a note issued to and approved by the:

- 1 (A) Farmers Home Administration;
2 (B) United States Department of Agriculture;
3 [~~or~~]
4 (C) Texas Water Development Board; or
5 (D) North American Development Bank; or

6 (2) a district described by Section 49.181(h).

7 SECTION 7. Section 49.181(a), Water Code, is amended to
8 read as follows:

9 (a) A district may not issue bonds unless the commission
10 determines that the project to be financed by the bonds is feasible
11 and issues an order approving the issuance of the bonds. This
12 section does not apply to:

13 (1) refunding bonds if the commission issued an order
14 approving the issuance of the bonds or notes that originally
15 financed the project;

16 (2) refunding bonds that are issued by a district
17 under an agreement between the district and a municipality allowing
18 the issuance of the district's bonds to refund bonds issued by the
19 municipality to pay the cost of financing facilities; or

20 (3) bonds issued to and approved by the Farmers Home
21 Administration, the United States Department of Agriculture, the
22 North American Development Bank, or the Texas Water Development
23 Board.

24 SECTION 8. Sections 49.183(a) and (b), Water Code, are
25 amended to read as follows:

26 (a) Except for refunding bonds, or bonds sold to a state or
27 federal agency or to the North American Development Bank, bonds

1 issued by a district shall be sold after advertising for and
2 receiving competitive sealed bids and shall be awarded to the
3 bidder whose bid produces the lowest net effective interest rate to
4 the district.

5 (b) Except for refunding bonds, or bonds sold to a state or
6 federal agency or to the North American Development Bank, before
7 any bonds are sold by a district, the board shall publish an
8 appropriate notice of the sale:

9 (1) at least one time not less than 10 days before the
10 date of sale in a newspaper of general circulation in the county or
11 counties in which the district is located; and

12 (2) at least one time in one or more recognized
13 financial publications of general circulation in the state as
14 approved by the state attorney general.

15 SECTION 9. Section 49.194, Water Code, is amended by adding
16 Subsection (g) to read as follows:

17 (g) A submission to the executive director required by this
18 section may be made electronically.

19 SECTION 10. Sections 49.226(a), (c), and (d), Water Code,
20 are amended to read as follows:

21 (a) Any personal property valued at more than \$300 or any
22 land or interest in land owned by the district which is found by the
23 board to be surplus and is not needed by the district may be sold
24 under order of the board either by public or private sale, or the
25 land, interest in land, or personal property may be exchanged for
26 other land, interest in land, or personal property needed by the
27 district. Except as provided in Subsection (b), land, interest in

1 land, or personal property must be exchanged for like fair market
2 value, which value may be determined by the district. In connection
3 with the sale of surplus land, the board, at its discretion, may
4 impose restrictions on the development and use of the land.

5 (c) Before [~~either~~] a public [~~or a private~~] sale of real
6 property, the district shall give notice of the intent to sell by
7 publishing notice once a week for two consecutive weeks in one or
8 more newspapers with general circulation in the district.

9 (d) If the district has outstanding bonds secured by a
10 pledge of tax revenues, the proceeds of the sale of property
11 originally acquired with bond proceeds shall be:

12 (1) applied to retire outstanding bonds of the
13 district; or

14 (2) held and treated as surplus bond proceeds and
15 spent only as provided by the rules of the commission relating to
16 surplus bond proceeds.

17 SECTION 11. Section 49.234(a), Water Code, as added by
18 Section 15, Chapter 1423, Acts of the 77th Legislature, Regular
19 Session, 2001, is amended to read as follows:

20 (a) A district or water supply corporation that operates a
21 wastewater collection system to serve land within its boundaries by
22 rule may prohibit the installation of private on-site wastewater
23 holding or treatment facilities on land within the district that is
24 not served by the district's or corporation's wastewater collection
25 system. A district or corporation that has not received funding
26 under Subchapter K, Chapter 17, may not require a property owner who
27 has [~~already~~] installed an on-site wastewater holding or treatment

1 facility before the adoption of the rule to connect to the
2 district's or corporation's wastewater collection system.

3 SECTION 12. Section 49.271, Water Code, is amended by
4 adding Subsection (e) to read as follows:

5 (e) A district contract for construction work may include
6 economic incentives for early completion of the work or economic
7 disincentives for late completion of the work.

8 SECTION 13. Section 49.273, Water Code, is amended by
9 adding Subsection (1) to read as follows:

10 (1) The board is not required to advertise or seek
11 competitive bids for security or surveillance systems or components
12 of or additions to district facilities relating to security or
13 surveillance, including systems used for the prevention of
14 terrorist or criminal acts and incidents or acts of war, if the
15 board finds that doing so would compromise the safety and security
16 of district facilities or residents.

17 SECTION 14. Section 49.278(a), Water Code, is amended to
18 read as follows:

19 (a) This subchapter does not apply to:

20 (1) equipment, materials, or machinery purchased by
21 the district at an auction that is open to the public;

22 (2) contracts for personal or professional services or
23 for a utility service operator;

24 (3) contracts made by a district engaged in the
25 distribution and sale of electric energy to the public;

26 (4) contracts for services or property for which there
27 is only one source or for which it is otherwise impracticable to

1 obtain competition; ~~[or]~~

2 (5) high technology procurements; or

3 (6) contracts for the purchase of electricity for use
4 by the district.

5 SECTION 15. Section 49.303, Water Code, is amended to read
6 as follows:

7 Sec. 49.303. EXCLUDING LAND OR OTHER PROPERTY FROM
8 DISTRICT. (a) A district may exclude land or other property from
9 the district under this subchapter if the district has no
10 outstanding bonds payable in whole or in part from taxes.

11 (b) If a district has no outstanding ~~[Before a district~~
12 ~~orders an election for the authorization of]~~ bonds payable in whole
13 or in part from taxes, the board may, on its own motion, call a
14 hearing on the question of the exclusion of land or other property
15 from the district under the provisions of this subchapter ~~[section~~
16 ~~and Sections 49.304 through 49.307]~~, if the exclusions are
17 practicable, just, or desirable.

18 ~~[(b) The board must call a hearing on the exclusion of land~~
19 ~~or other property from the district on the written petition of any~~
20 ~~landowner or property owner in the district filed with the~~
21 ~~secretary of the board before the first election on the question of~~
22 ~~whether bonds should be issued payable in whole or in part from~~
23 ~~taxes is ordered.]~~

24 (c) If a district has no outstanding bonds payable in whole
25 or in part from taxes, the ~~[The]~~ board may hold a hearing on the
26 exclusion of land or other property from the district ~~[if the~~
27 ~~district has not issued bonds payable in whole or in part from~~

1 ~~taxes, and]~~ if a landowner or property owner submits a signed
2 petition to the secretary of the board evidencing the consent of the
3 owners of a majority of the acreage proposed to be excluded and a
4 majority of the taxable property in the district, as reflected by
5 the most recent certified tax roll of the district.

6 (d) A district that has previously held an election at which
7 approval was given for the issuance of bonds payable in whole or in
8 part from taxes may not rely on that election for the issuance of
9 the bonds if after the bond election, but before the bonds are
10 issued, land or other property is excluded from the district as
11 provided by this subchapter. The board must call and hold another
12 bond election and receive voter approval [~~as provided by this~~
13 ~~subchapter~~] before issuing those bonds.

14 (e) A district may not exclude land or other property from
15 the district under this subchapter if the district has issued bonds
16 payable in whole or in part from taxes and those bonds are
17 outstanding.

18 SECTION 16. Section 49.304(a), Water Code, is amended to
19 read as follows:

20 (a) If the board determines that an exclusion hearing should
21 be held as provided by Section 49.303 [~~(a) or (c), or if a written~~
22 ~~petition requesting an exclusion hearing is filed with the~~
23 ~~secretary of the board as provided by Section 49.303(b)] , the board
24 shall give notice of the time and place of a hearing to announce its
25 own conclusions relating to land or other property to be excluded
26 and to receive petitions for exclusion of land or other property.~~

27 SECTION 17. Sections 49.351(a), (k), and (l), Water Code,

1 are amended to read as follows:

2 (a) A district providing potable water or sewer service to
3 household users may establish, operate, and maintain a fire
4 department to perform all fire-fighting services [~~activities~~]
5 within the district as provided in this subchapter and may issue
6 bonds or impose a mandatory fee, with voter approval, for financing
7 a plan approved in accordance with this section, including the
8 construction and purchase of necessary buildings, facilities,
9 land, and equipment and the provision of an adequate water supply.

10 (k) In this section, "fire-fighting services [~~activities~~]"
11 means all of the customary and usual services [~~activities~~] of a fire
12 department, including fire suppression, fire prevention, training,
13 safety education, maintenance, communications, medical emergency
14 services, photography, and administration.

15 (l) Notwithstanding the requirements of Subsections
16 (a)-(j), a district providing potable water or sewer service to
17 household users may as part of its billing process collect from its
18 customers a voluntary contribution on behalf of organizations
19 providing fire-fighting services [~~activities~~] to the district. A
20 district that chooses to collect a voluntary contribution under
21 this subsection must give reasonable notice to its customers that
22 the contribution is voluntary. Water and sewer service may not be
23 terminated as a result of failure to pay the voluntary
24 contribution.

25 SECTION 18. Section 49.455(d), Water Code, is amended to
26 read as follows:

27 (d) The information form required by this section shall be

1 filed with the county clerk [~~within 48 hours after the effective~~
2 ~~date of this section or~~] within 48 hours after the district is
3 officially created[~~, whichever time comes first~~]. For purposes of
4 this section, the words "officially created" mean the date and hour
5 in which the results of the election to confirm the creation of the
6 district are declared.

7 SECTION 19. Section 54.201(b), Water Code, is amended to
8 read as follows:

9 (b) A district is authorized to purchase, construct,
10 acquire, own, operate, maintain, repair, improve, or extend inside
11 and outside its boundaries any and all works, improvements,
12 facilities, plants, equipment, and appliances necessary to
13 accomplish the purposes of the district authorized by the
14 constitution, this code, or other law [~~its creation~~], including all
15 works, improvements, facilities, plants, equipment, and appliances
16 incident, helpful, or necessary to:

17 (1) supply water for municipal uses, domestic uses,
18 power, and commercial purposes and all other beneficial uses or
19 controls;

20 (2) collect, transport, process, dispose of, and
21 control all domestic, industrial, or communal wastes whether in
22 fluid, solid, or composite state;

23 (3) gather, conduct, divert, and control local storm
24 water or other local harmful excesses of water in a district;

25 (4) irrigate the land in a district;

26 (5) alter land elevation in a district where it is
27 needed;

1 (6) navigate coastal and inland waters of the
2 district; and

3 (7) provide parks and recreational facilities for the
4 inhabitants in the district [~~, subject to Subchapter I of this~~
5 ~~chapter~~].

6 SECTION 20. Subchapter D, Chapter 54, Water Code, is
7 amended by adding Section 54.2052 to read as follows:

8 Sec. 54.2052. PLUMBING CODE. Notwithstanding any other
9 law, a district is not required to adopt a plumbing code. A
10 district may adopt and enforce one or more plumbing codes meeting
11 the standards and requirements of the rules and laws of this state
12 and may amend any code adopted to conform to local concerns if the
13 amendment does not substantially vary from rules or laws of this
14 state.

15 SECTION 21. Section 54.234, Water Code, is amended to read
16 as follows:

17 Sec. 54.234. ACQUIRING ROAD UTILITY DISTRICT POWERS. Any
18 district, which has the power to levy taxes, may [~~, with the approval~~
19 ~~of the commission,~~] petition the commission [~~Texas Transportation~~
20 ~~Commission~~] to acquire the powers granted to road utility districts
21 operating pursuant to Chapter 441, Transportation Code, under the
22 authority of Article III, Section 52, Texas Constitution. As soon
23 as practicable after such petition has been filed with the
24 commission [~~Texas Transportation Commission~~], the commission
25 [~~Texas Transportation Commission shall conduct a hearing in~~
26 ~~accordance with Chapter 441, Transportation Code, and~~] shall issue
27 an order [~~in accordance with Chapter 441, Transportation Code,~~]

1 either approving or denying such petition. [~~Any district so~~
2 ~~petitioning the Texas Transportation Commission shall conform to~~
3 ~~the rules applicable to the creation and administration of such~~
4 ~~districts as provided by Chapter 441, Transportation Code.~~] In the
5 event of any conflict between the provisions of the Water Code and
6 the general laws of this state applicable to the district and the
7 provisions of Chapter 441, Transportation Code, the provisions of
8 the Water Code and the general laws of this state applicable to the
9 district shall prevail.

10 SECTION 22. Section 54.503, Water Code, is amended to read
11 as follows:

12 Sec. 54.503. MANNER OF REPAYMENT OF BONDS. The board may
13 provide for the payment of principal of and interest and redemption
14 price on the bonds in any one of the following manners:

15 (1) from the levy and collection of ad valorem taxes on
16 all taxable property within the district;

17 (2) by pledging all or any part of the designated
18 revenues to result from the ownership or operation of the
19 district's works, improvements, facilities, plants, equipment, and
20 appliances or under specific contracts for the period of time the
21 board determines;

22 (3) by pledging all or part of any funds or revenues
23 available to the district; or

24 (4) a combination of the sources set forth in
25 Subdivisions (1), ~~and~~ (2), and (3) of this section.

26 SECTION 23. Section 54.505, Water Code, is amended to read
27 as follows:

1 Sec. 54.505. ELECTION ON TAX BONDS. Bonds payable solely
2 from revenues may be issued by resolution or order of the board
3 without an election, but no bonds, except refunding bonds, payable
4 wholly or partially from ad valorem taxes shall be issued until
5 authorized by a majority vote of the resident electors of the
6 district voting in an election called and held for that purpose. An
7 election is not required to pledge revenues to the payment of bonds.

8 SECTION 24. Sections 54.739 and 54.744, Water Code, are
9 amended to read as follows:

10 Sec. 54.739. SUBSTITUTING LAND OF EQUAL [~~ACREAGE AND~~]
11 VALUE. After the district is organized and acquires facilities
12 with which to function for the purposes for which it was organized,
13 and votes, issues and sells bonds for such purposes, land within the
14 district boundaries subject to taxation that does not need or
15 utilize the services of the district may be excluded and other land
16 not within the boundaries of the district may be included within the
17 boundaries of the district without impairment of the security for
18 payment of the bonds or invalidation of any prior bond election, as
19 provided by [~~the provisions of~~] this section and Sections 54.740
20 [~~54.741~~] through 54.747 [~~54.748 subject to commission approval~~].

21 Sec. 54.744. IMPAIRMENT OF SECURITY. For purposes of the
22 board's consideration of the applications, the lands proposed for
23 inclusion shall be deemed to be sufficient to avoid an impairment of
24 the security for payment of obligations of the district if:

25 (1) according to the most recent [~~county~~] tax roll of
26 the district or the most recently certified estimates of taxable
27 value from the chief appraiser of the appropriate appraisal

1 district [~~rolls~~], the taxable value of such included lands equals
2 or exceeds the taxable value of the excluded lands;

3 (2) either the estimated costs of providing district
4 facilities and services to such included lands is equal to or less
5 than the estimated costs of providing district facilities and
6 services to the excluded lands or any increased estimated costs of
7 providing district facilities and services to the included land, as
8 determined by the district's engineer, can be amortized at
9 prevailing bond interest rates and maturity schedules and the
10 prevailing debt service tax rate of the district, as determined by
11 the district's professional financial advisor, when applied to the
12 increase in taxable value of the included land over the taxable
13 value of the excluded land; and

14 (3) the district's outstanding bonds or contract
15 obligations are payable in whole or in part by a pledge of net
16 revenues from the ownership or operation of the district's
17 facilities, and the projected net revenues to be derived from the
18 lands to be included during the succeeding 12-month period, as
19 determined by the district's engineer, equals or exceeds the
20 projected net revenues that would otherwise have been derived from
21 the lands to be excluded during the same period.

22 SECTION 25. Subchapter H, Chapter 54, Water Code, is
23 amended by adding Sections 54.748 and 54.749 to read as follows:

24 Sec. 54.748. EXCLUSION OF LAND FOR FAILURE TO PROVIDE
25 SUFFICIENT SERVICES; BONDS OUTSTANDING. (a) This section applies
26 only to a district that has a total area of more than 5,000 acres.

27 (b) The board shall call a hearing on the exclusion of land

1 from the district on a written petition filed with the secretary of
2 the board by a landowner whose land has been included in and taxable
3 by the district for more than 28 years if any bonds issued by the
4 district payable in whole or in part from taxes of the district are
5 outstanding and the petition:

6 (1) includes a signed petition evidencing the consent
7 of the owners of a majority of the acreage proposed to be excluded,
8 as reflected by the most recent certified tax roll of the district;

9 (2) includes a claim that the district has not
10 provided the land with utility services;

11 (3) describes the property to be excluded;

12 (4) provides, at the petitioner's expense, facts
13 necessary for the board to make the findings required by Subsection
14 (c); and

15 (5) is filed before August 31, 2005.

16 (c) The board may exclude land under this section only on
17 finding that:

18 (1) the district has never provided utility services
19 to the land described by the petition;

20 (2) the district has imposed a tax on the land for more
21 than 28 years;

22 (3) all taxes the district has levied and assessed
23 against the land and all fees and assessments the district has
24 imposed against the land or the owner that are due and payable on or
25 before the date of the petition are fully paid; and

26 (4) the executive director has reviewed the economic
27 impact of the proposed exclusion of land and does not oppose the

1 exclusion.

2 (d) If evidence presented at the hearing conclusively
3 demonstrates that the requirements and grounds for exclusion
4 described by Subsections (b) and (c) have been met, the board may
5 enter an order excluding the land from the district. If the board
6 enters an order excluding the land, the board shall redefine in the
7 order the boundaries of the district to embrace all land not
8 excluded.

9 (e) A copy of an order excluding land and redefining the
10 boundaries of the district shall be filed in the deed records of the
11 county in which the district is located.

12 (f) The exclusion of land under this section does not impair
13 the rights of holders of any outstanding bonds, warrants, or other
14 certificates of indebtedness of the district.

15 (g) After any land is excluded under this section, the
16 district may issue any unissued additional debt approved by the
17 voters of the district before exclusion of the land under this
18 section without holding a new election. Additional debt issued
19 after land is excluded from the district may not be payable from and
20 does not create a lien against the taxable value of the excluded
21 land.

22 (h) For purposes of this section and Section 54.749, "land"
23 includes any improvements to the land, and when used in the context
24 of property taxes, "land" has the meaning assigned to "real
25 property" by Section 1.04, Tax Code.

26 Sec. 54.749. TAX LIABILITY OF EXCLUDED LAND; BONDS
27 OUTSTANDING. (a) Land excluded from the district under Section

1 54.748 that is pledged as security for any outstanding debt of the
2 district remains pledged for its pro rata share of the debt until
3 final payment is made. The district shall continue to levy and
4 collect taxes on the excluded land at the same rate levied on land
5 remaining in the district until the amount of taxes collected from
6 the excluded land equals the land's pro rata share of the district's
7 debt outstanding at the time the land was excluded from the
8 district.

9 (b) The district shall apply the taxes collected on the
10 excluded land only to the payment of the excluded land's pro rata
11 share of the debt.

12 SECTION 26. Section 57.015(b), Water Code, is amended to
13 read as follows:

14 (b) The notice shall be posted at the courthouse door and at
15 a place [~~four different places~~] inside the proposed district. If
16 the district is located in more than one county, the person posting
17 the notice shall post a copy at the courthouse door in each county
18 in which any portion of the proposed district is located and at a
19 place [~~four separate places~~] inside the boundaries of that portion
20 of the district located in each county. The notice shall be posted
21 for at least 10 days before the date of the hearing.

22 SECTION 27. Section 57.092(a), Water Code, is amended to
23 read as follows:

24 (a) The district may enter into all necessary and proper
25 contracts and employ all persons and means necessary to purchase,
26 acquire, build, construct, complete, carry out, maintain, protect,
27 and, in case of necessity, add to and rebuild all works and

1 improvements necessary or proper to fully accomplish the purposes
2 of the district, including the reclamation of land within the
3 district [~~a reclamation plan lawfully adopted for the district~~].

4 SECTION 28. Section 57.104, Water Code, is amended to read
5 as follows:

6 Sec. 57.104. CONSTRUCTION OF [~~DUTY TO CONSTRUCT APPROVED~~]
7 IMPROVEMENTS. The district may [~~shall~~] construct all improvements
8 necessary or convenient to accomplish the purposes of the district
9 [~~included in the plan of reclamation approved by the commission~~].

10 SECTION 29. Section 57.108(b), Water Code, is amended to
11 read as follows:

12 (b) Contracts may be awarded or entered in sections for the
13 purpose of the purchase, acquisition, construction, and
14 improvement of pumping equipment, reservoirs, culverts, bridges,
15 and drainage improvements as these may become necessary[~~, but as~~
16 ~~funds are available, the district shall comply with Section~~
17 ~~57.104~~].

18 SECTION 30. The heading to Section 57.116, Water Code, is
19 amended to read as follows:

20 Sec. 57.116. ENGINEER'S CONSTRUCTION REPORT.

21 SECTION 31. Section 57.116(a), Water Code, is amended to
22 read as follows:

23 (a) As [~~the~~] work [~~on the plan of reclamation~~] progresses on
24 the district's improvements, the engineer shall make a report to
25 the board, showing in detail whether or not the contract is being
26 fulfilled.

27 SECTION 32. Section 57.117(b), Water Code, is amended to

1 read as follows:

2 (b) If the executive director finds that the work has not
3 been done in strict accordance with the contract, he shall
4 officially certify this fact, and in the certificate he shall state
5 where the contractor has failed to comply with the contract
6 [~~approved plan of reclamation~~].

7 SECTION 33. Section 57.118, Water Code, is amended to read
8 as follows:

9 Sec. 57.118. COMPLIANCE WITH CONTRACT. After the board
10 receives a report that the contractor has failed to comply with the
11 contract, it shall demand that the contractor comply with the
12 requirements of the contract [~~approved plan of reclamation~~] at his
13 own expense, and no further accounts, claims, or vouchers submitted
14 by the contractor shall be approved or paid until the contractor
15 complies with the requirements of the executive director by
16 constructing the improvement in accordance with the contract [~~plan~~
17 ~~of reclamation~~].

18 SECTION 34. The heading to Subchapter E, Chapter 57, Water
19 Code, is amended to read as follows:

20 SUBCHAPTER E. ENGINEER'S REPORT [~~PLAN OF RECLAMATION~~]

21 SECTION 35. Sections 57.177(a) and (c), Water Code, are
22 amended to read as follows:

23 (a) If the district wants to carry out its purposes [~~plan of~~
24 ~~reclamation~~] without issuing bonds, the board may arrange for
25 contributions from landowners or other sources to provide the funds
26 required to complete the improvements.

27 (c) If the district creates an indebtedness under this

1 section, the indebtedness may not be more than:

2 (1) the cost of construction of the improvements
3 included in the engineer's report [~~plan of reclamation~~];

4 (2) the cost [~~as approved by the commission~~] of
5 maintaining the improvements for two years; and

6 (3) an additional amount equal to 10 percent to meet
7 emergencies, modifications, and changes lawfully made, plus
8 damages awarded against the district.

9 SECTION 36. Section 57.208(b), Water Code, is amended to
10 read as follows:

11 (b) The bonds shall be known as "Levee Improvement Bonds"
12 [~~and shall state on their face the purpose for which they are~~
13 ~~issued~~].

14 SECTION 37. Section 57.216, Water Code, is amended to read
15 as follows:

16 Sec. 57.216. PROVIDING FOR ADDITIONAL FUNDS. (a) If the
17 improvements in the engineer's report [~~plan of reclamation adopted~~
18 ~~for the district~~] are insufficient to reclaim all of the land and
19 other property inside the district, extensive repairs or additions
20 to the improvements are necessary, or additional funds are needed
21 to complete improvements, the board may provide additional funds
22 for the district by following the provisions of this chapter for
23 raising funds [~~for the original plan of reclamation~~].

24 (b) If the board creates additional indebtedness or issues
25 additional bonds, the indebtedness or bonds are subject to the
26 provisions of this chapter relating to the issuance of bonds. [~~The~~
27 ~~new or amended plan of reclamation must be approved by the~~

1 ~~commission.]~~

2 SECTION 38. Section 57.260(a), Water Code, is amended to
3 read as follows:

4 (a) If a district levies taxes on the benefit basis, the
5 commissioners court of each county in which any portion of that
6 district is located shall levy and have assessed and collected
7 taxes on all taxable property inside the district, based on the net
8 benefits which the commissioners of appraisement find will accrue
9 to each piece of property from the improvements described in the
10 engineer's report [~~completion of the plan of reclamation~~] or other
11 authorized improvements [~~improvement~~].

12 SECTION 39. Section 57.261, Water Code, is amended to read
13 as follows:

14 Sec. 57.261. APPOINTMENT OF COMMISSIONERS OF APPRAISEMENT.
15 The [~~After the plan of reclamation is approved and adopted, the~~]
16 commissioners court of the county of jurisdiction in a district
17 levying taxes on the benefit basis shall appoint three
18 disinterested commissioners, known as "commissioners of
19 appraisement."

20 SECTION 40. Sections 57.265(c) and (d), Water Code, are
21 amended to read as follows:

22 (c) The commissioners of appraisement shall view:

23 (1) the land inside the district;

24 (2) other land which will be affected by the engineer's
25 report [~~plan of reclamation~~] if carried out;

26 (3) all public roads, railroads, rights-of-way, and
27 other property or improvements located on the land; and

1 (4) land inside or outside the district which may be
2 acquired under the provisions of this chapter for any purpose
3 connected with or incident to carrying out the engineer's report
4 [~~plan of reclamation~~].

5 (d) The commissioners of appraisement shall assess the
6 amounts of benefits and all damages that will accrue to any tract of
7 land inside the district or any land outside the district which may
8 be affected by the engineer's report [~~plan of reclamation~~], or any
9 public highway, railroad, right-of-way, roadway, or other
10 property.

11 SECTION 41. Section 57.266(a), Water Code, is amended to
12 read as follows:

13 (a) The commissioners of appraisement shall prepare a
14 report of their findings. The report shall include:

15 (1) the name of the owner of each piece of property
16 examined and assessed;

17 (2) a description which will identify each piece of
18 property; and

19 (3) the value of all property to be taken or acquired
20 for rights-of-way or any other purposes connected with carrying out
21 the engineer's report [~~plan of reclamation as finally approved by~~
22 ~~the commission~~].

23 SECTION 42. Sections 57.267(b), (c), and (d), Water Code,
24 are amended to read as follows:

25 (b) The notice shall be published in a newspaper published
26 in each county in which any part of the district is located, or in
27 which any land lies that will be in any way affected by the proposed

1 engineer's report [~~plan of reclamation~~]. The notice shall be
2 published once a week for two consecutive weeks before the date of
3 the hearing.

4 (c) The notice shall be in substantially the following form:

5 To the owners and all other persons having any interest in
6 land lying in _____ County, take notice, that a copy of the
7 engineer's report [~~plan of reclamation~~] of the _____ Levee
8 Improvement District has been filed in the district's office [~~with~~
9 ~~the county clerk of this county~~] and that the commissioners of
10 appraisement have been appointed to assess benefits and damages
11 accruing to land or other property inside or outside the levee
12 improvement district which will be benefited, taken, damaged, or
13 affected in some way by the carrying out of the engineer's report
14 [~~plan of reclamation~~]. The report of the commissioners of
15 appraisement has been filed in my office at _____, and all
16 interested persons may examine the report and make an objection to
17 all or any part of the report. A person who claims damage to his
18 land and to whose land no damages have been assessed in the report
19 must file a claim for damage in my office on or before _____,
20 [~~19~~]____. A person who fails to make an objection or to file a claim
21 for damages is deemed to have waived his right to object or claim
22 damages. The commissioners of appraisement will meet on _____,
23 [~~19~~]____, to hear and act on objections to their report and claims
24 for damages.

25 _____

26 Secretary, Board of Directors

27 _____ Levee Improvement District

1 (d) The secretary shall mail written notice to each person
2 whose property is listed in the report of the commissioners of
3 appraisal, if the office address is known. This notice shall
4 state in substance:

5 (1) that the report of the commissioners of
6 appraisal assessing benefits and damages accruing to land and
7 other property because of the engineer's report [~~plan of~~
8 ~~reclamation~~] for the district has been filed in the district's
9 [~~secretary's~~] office;

10 (2) that all persons interested may examine the report
11 and make objections to it in whole or in part; and

12 (3) that the commissioners of appraisal will meet
13 on the day and at the place named to hear and act on objections to
14 the report.

15 SECTION 43. Sections 57.269(a) and (b), Water Code, are
16 amended to read as follows:

17 (a) An owner of land or other property affected by the
18 report of the commissioners of appraisal or by the engineer's
19 report [~~plan of reclamation~~] may file an objection to any or all
20 parts of the report of the commissioners of appraisal at or
21 before the hearing on the report.

22 (b) A person on whose land no damages have been assessed and
23 who believes that his land will be damaged by prosecution of the
24 engineer's report [~~plan of reclamation~~] may file with the secretary
25 of the board a claim for damages.

26 SECTION 44. Sections 57.270(e), (j), and (k), Water Code,
27 are amended to read as follows:

1 (e) The secretary in not less than five days after the
2 appeal is filed shall send to the district clerk:

3 (1) the engineer's report [~~plan of reclamation~~] or a
4 certified copy of it;

5 (2) a transcript of that part of the commissioners of
6 appraisement's report affecting the lands concerned in the appeal;

7 (3) a transcript of the claim for damages; and

8 (4) a transcript of the action of the commissioners of
9 appraisement on the claim.

10 (j) No appeal may delay carrying out the engineer's report
11 [~~plan of reclamation~~], and if the board pays to the district clerk
12 the amount of damages awarded by the commissioners of appraisement
13 to a claimant who is appealing their decree, and if the board makes
14 bond to pay to the claimant any additional amount that he may be
15 awarded on his appeal, title to the condemned property that is the
16 subject of the appeal vests in the district, and the district is
17 entitled to immediate possession.

18 (k) No person may claim damages against the district, its
19 board, officers, or agents because of the prosecution of the
20 engineer's report [~~plan of reclamation~~] if he owns or has an
21 interest in land in a county in which [~~a copy of the plan of~~
22 ~~reclamation has been filed and in which~~] notice has been published
23 of the hearing before the commissioners of appraisement, and he has
24 failed to file a claim for damages or an objection to the damages
25 assessed by the commissioners of appraisement against his land, or
26 if he has filed a claim or objection but has failed to appeal from an
27 adverse ruling on his claim or objection.

1 SECTION 45. Section 57.273(b), Water Code, is amended to
2 read as follows:

3 (b) If the engineer's report [~~plan of reclamation~~] is
4 changed or modified, or if extensive repairs or additions to the
5 engineer's report [~~plan of reclamation~~] are desired, the board
6 shall file a petition with the commissioners court describing the
7 changes, modifications, repairs, or additions.

8 SECTION 46. Section 57.274(b), Water Code, is amended to
9 read as follows:

10 (b) The commissioners court shall order a reassessment of
11 benefits if it finds that the aggregate amount of assessed benefits
12 as shown by the previous final judgment and decree is insufficient
13 to carry out the original engineer's report [~~plan of reclamation~~]
14 or changes, repairs, or additions to the report [~~plan~~] or there has
15 been a material change in the relative value of the benefits
16 conferred on the property in the district, or for some reason the
17 assessment of benefits is inadequate or inequitable.

18 SECTION 47. Section 57.275(d), Water Code, is amended to
19 read as follows:

20 (d) If the engineer's report [~~plan of reclamation~~] is
21 modified, or if extensive repairs or additions are made, the
22 provisions of this section apply to districts that levy taxes on the
23 ad valorem basis, but the commissioners of appraisalment shall
24 assess only the damages which will accrue to the property inside or
25 outside the district as a result of the changes in the report
26 [~~plan~~].

27 SECTION 48. Section 67.010(d), Water Code, is amended to

1 read as follows:

2 (d) A political subdivision may contract with a corporation
3 under Section 402.014, Local Government Code, to carry out this
4 chapter. If a corporation issues bonds secured by a contract
5 entered into under Section 402.014, Local Government Code, the
6 corporation is considered to be acting for or on behalf of that
7 political subdivision for the purposes of Section 1201.002(1),
8 Government Code. A political subdivision is authorized to approve
9 by ordinance, resolution, or order the articles of incorporation
10 and the bylaws of a corporation that is created for the purpose of
11 constructing facilities under a contract as provided by Section
12 402.014, Local Government Code.

13 SECTION 49. The following provisions are repealed:

14 (1) Sections 54.0163(e), 54.508, 57.094, 57.108(a),
15 57.154(b), and 57.156, Water Code;

16 (2) Section 402.908, Local Government Code; and

17 (3) Subchapter C, Chapter 441, Transportation Code.

18 SECTION 50. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2003.