

By: Callegari

H.B. No. 1541

Substitute the following for H.B. No. 1541:

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C.S.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 other than:

(A) a school district in a nonattainment area or in an affected county; 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.

SECTION 2. Section 49.068, Water Code, is amended to read as follows:

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

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

1 SECTION 3. Section 49.103, Water Code, is amended by adding
2 Subsection (h) to read as follows:

3 (h) If authorized by the board in the proceedings calling a
4 director election, the secretary of the board or the secretary's
5 designee, on receipt of the certification required by Section
6 2.052(b), Election Code, shall post notice that the election is not
7 to be held. The notice must be posted, on or before the
8 commencement of early voting, at each polling place that would have
9 been used in the election. If the notice is timely posted:

10 (1) the board or the board's designee is not required
11 to:

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

13 (B) prepare or print ballots and election
14 materials; or

15 (C) hold early and regular voting; and

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

18 SECTION 4. Section 49.106(a), Water Code, is amended to
19 read as follows:

20 (a) Before an election is held to authorize the issuance of
21 bonds, other than refunding bonds, there shall be filed in the
22 office of the district and open to inspection by the public an
23 engineer's report covering the land, improvements, facilities,
24 plants, equipment, and appliances to be purchased or constructed
25 and their estimated cost, together with maps, plats, profiles, and
26 data fully showing and explaining the report. The engineer's
27 report is not:

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

3 (2) a contract with the voters.

4 SECTION 5. Section 49.153(a), Water Code, is amended to
5 read as follows:

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

12 SECTION 6. Section 49.181(a), Water Code, is amended to
13 read as follows:

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

18 (1) refunding bonds if the commission issued an order
19 approving the issuance of the bonds or notes that originally
20 financed the project;

21 (2) refunding bonds that are issued by a district
22 under an agreement between the district and a municipality allowing
23 the issuance of the district's bonds to refund bonds issued by the
24 municipality to pay the cost of financing facilities; or

25 (3) bonds issued to and approved by the Farmers Home
26 Administration, the United States Department of Agriculture, or the
27 Texas Water Development Board.

1 SECTION 7. Section 49.194, Water Code, is amended by adding
2 Subsection (g) to read as follows:

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

5 SECTION 8. Sections 49.226(a), (c), and (d), Water Code,
6 are amended to read as follows:

7 (a) Any personal property valued at more than \$300 or any
8 land or interest in land owned by the district which is found by the
9 board to be surplus and is not needed by the district may be sold
10 under order of the board either by public or private sale, or the
11 land, interest in land, or personal property may be exchanged for
12 other land, interest in land, or personal property needed by the
13 district. Except as provided in Subsection (b), land, interest in
14 land, or personal property must be exchanged for like fair market
15 value, which value may be determined by the district. In connection
16 with the sale of surplus land, the board, at its discretion, may
17 impose restrictions on the development and use of the land.

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

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

25 (1) applied to retire outstanding bonds of the
26 district; or

27 (2) held and treated as surplus bond proceeds and

1 spent only as provided by the rules of the commission relating to
2 surplus bond proceeds.

3 SECTION 9. Section 49.234(a), Water Code, as added by
4 Section 15, Chapter 1423, Acts of the 77th Legislature, Regular
5 Session, 2001, is amended to read as follows:

6 (a) A district or water supply corporation that operates a
7 wastewater collection system to serve land within its boundaries by
8 rule may prohibit the installation of private on-site wastewater
9 holding or treatment facilities on land within the district that is
10 not served by the district's or corporation's wastewater collection
11 system. A district or corporation that has not received funding
12 under Subchapter K, Chapter 17, may not require a property owner who
13 has [~~already~~] installed an on-site wastewater holding or treatment
14 facility before the adoption of the rule to connect to the
15 district's or corporation's wastewater collection system.

16 SECTION 10. Section 49.271, Water Code, is amended by
17 adding Subsection (e) to read as follows:

18 (e) A district contract for construction work may include
19 economic incentives for early completion of the work or economic
20 disincentives for late completion of the work.

21 SECTION 11. Section 49.273, Water Code, is amended by
22 adding Subsection (l) to read as follows:

23 (l) The board is not required to advertise or seek
24 competitive bids for security or surveillance systems or components
25 of or additions to district facilities relating to security or
26 surveillance, including systems used for the prevention of
27 terrorist or criminal acts and incidents or acts of war, if the

1 board finds that doing so would compromise the safety and security
2 of district facilities or residents.

3 SECTION 12. Section 49.278(a), Water Code, is amended to
4 read as follows:

5 (a) This subchapter does not apply to:

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

8 (2) contracts for personal or professional services or
9 for a utility service operator;

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

12 (4) contracts for services or property for which there
13 is only one source or for which it is otherwise impracticable to
14 obtain competition; [~~or~~]

15 (5) high technology procurements; or

16 (6) contracts for the purchase of electricity for use
17 by the district.

18 SECTION 13. Section 49.303, Water Code, is amended to read
19 as follows:

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

24 (b) If a district has no outstanding [~~Before a district~~
25 ~~orders an election for the authorization of~~] bonds payable in whole
26 or in part from taxes, the board may, on its own motion, call a
27 hearing on the question of the exclusion of land or other property

1 from the district under the provisions of this subchapter [~~section~~
2 ~~and Sections 49.304 through 49.307~~], if the exclusions are
3 practicable, just, or desirable.

4 [~~(b) The board must call a hearing on the exclusion of land~~
5 ~~or other property from the district on the written petition of any~~
6 ~~landowner or property owner in the district filed with the~~
7 ~~secretary of the board before the first election on the question of~~
8 ~~whether bonds should be issued payable in whole or in part from~~
9 ~~taxes is ordered.~~]

10 (c) If a district has no outstanding bonds payable in whole
11 or in part from taxes, the [~~The~~] board may hold a hearing on the
12 exclusion of land or other property from the district [~~if the~~
13 ~~district has not issued bonds payable in whole or in part from~~
14 ~~taxes, and~~] if a landowner or property owner submits a signed
15 petition to the secretary of the board evidencing the consent of the
16 owners of a majority of the acreage proposed to be excluded and a
17 majority of the taxable property in the district, as reflected by
18 the most recent certified tax roll of the district.

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

27 (e) A district may not exclude land or other property from

1 the district under this subchapter if the district has issued bonds
2 payable in whole or in part from taxes and those bonds are
3 outstanding.

4 SECTION 14. Section 49.304(a), Water Code, is amended to
5 read as follows:

6 (a) If the board determines that an exclusion hearing should
7 be held as provided by Section 49.303~~[(a) or (c), or if a written~~
8 ~~petition requesting an exclusion hearing is filed with the~~
9 ~~secretary of the board as provided by Section 49.303(b)]~~, the board
10 shall give notice of the time and place of a hearing to announce its
11 own conclusions relating to land or other property to be excluded
12 and to receive petitions for exclusion of land or other property.

13 SECTION 15. Sections 49.351(a), (k), and (l), Water Code,
14 are amended to read as follows:

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

23 (k) In this section, "fire-fighting services ~~[activities]~~"
24 means all of the customary and usual services ~~[activities]~~ of a fire
25 department, including fire suppression, fire prevention, training,
26 safety education, maintenance, communications, medical emergency
27 services, photography, and administration.

1 (1) Notwithstanding the requirements of Subsections
2 (a)-(j), a district providing potable water or sewer service to
3 household users may as part of its billing process collect from its
4 customers a voluntary contribution on behalf of organizations
5 providing fire-fighting services [~~activities~~] to the district. A
6 district that chooses to collect a voluntary contribution under
7 this subsection must give reasonable notice to its customers that
8 the contribution is voluntary. Water and sewer service may not be
9 terminated as a result of failure to pay the voluntary
10 contribution.

11 SECTION 16. Section 49.455(d), Water Code, is amended to
12 read as follows:

13 (d) The information form required by this section shall be
14 filed with the county clerk [~~within 48 hours after the effective~~
15 ~~date of this section or~~] within 48 hours after the district is
16 officially created[~~, whichever time comes first~~]. For purposes of
17 this section, the words "officially created" mean the date and hour
18 in which the results of the election to confirm the creation of the
19 district are declared.

20 SECTION 17. Section 54.201(b), Water Code, is amended to
21 read as follows:

22 (b) A district is authorized to purchase, construct,
23 acquire, own, operate, maintain, repair, improve, or extend inside
24 and outside its boundaries any and all works, improvements,
25 facilities, plants, equipment, and appliances necessary to
26 accomplish the purposes of the district authorized by the
27 constitution, this code, or other law [~~its creation~~], including all

1 works, improvements, facilities, plants, equipment, and appliances
2 incident, helpful, or necessary to:

3 (1) supply water for municipal uses, domestic uses,
4 power, and commercial purposes and all other beneficial uses or
5 controls;

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

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

11 (4) irrigate the land in a district;

12 (5) alter land elevation in a district where it is
13 needed;

14 (6) navigate coastal and inland waters of the
15 district; and

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

19 SECTION 18. Subchapter D, Chapter 54, Water Code, is
20 amended by adding Sections 54.202 and 54.2052 to read as follows:

21 Sec. 54.202. PROHIBITION OF CERTAIN PRIVATE ON-SITE
22 FACILITIES. (a) A district that operates a water supply and
23 distribution system to serve land within its boundaries by rule may
24 prohibit the installation of private on-site water wells on land
25 within the district that is served by the district's water system.
26 A district that has not received funding under Subchapter K,
27 Chapter 17, may not require a property owner who has installed an

1 on-site water well before the adoption of the rule to connect to the
2 district's water system.

3 (b) A district that prohibits an installation under
4 Subsection (a) shall pay the owner of the tract of land requiring
5 water service the costs of connecting the tract to the district's
6 water system if the distance along a public right-of-way or utility
7 easement from the nearest point of the district's water system to
8 the boundary line of the tract requiring water service is 300 feet
9 or more, subject to commission rules regarding reimbursement of
10 those costs.

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

18 SECTION 19. Section 54.234, Water Code, is amended to read
19 as follows:

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

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

13 SECTION 20. Section 54.503, Water Code, is amended to read
14 as follows:

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

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

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

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

27 (4) a combination of the sources set forth in

1 Subdivisions (1), ~~and~~ (2), and (3) of this section.

2 SECTION 21. Section 54.505, Water Code, is amended to read
3 as follows:

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

11 SECTION 22. Sections 54.739 and 54.744, Water Code, are
12 amended to read as follows:

13 Sec. 54.739. SUBSTITUTING LAND OF EQUAL ~~[ACREAGE AND]~~
14 VALUE. After the district is organized and acquires facilities
15 with which to function for the purposes for which it was organized,
16 and votes, issues and sells bonds for such purposes, land within the
17 district boundaries subject to taxation that does not need or
18 utilize the services of the district may be excluded and other land
19 not within the boundaries of the district may be included within the
20 boundaries of the district without impairment of the security for
21 payment of the bonds or invalidation of any prior bond election, as
22 provided by ~~[the provisions of]~~ this section and Sections 54.740
23 ~~[54.741]~~ through 54.747 ~~[54.748 subject to commission approval]~~.

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

1 (1) according to the most recent [~~county~~] tax roll of
2 the district or the most recently certified estimates of taxable
3 value from the chief appraiser of the appropriate appraisal
4 district [~~rolls~~], the taxable value of such included lands equals
5 or exceeds the taxable value of the excluded lands;

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

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

25 SECTION 23. Section 57.015(b), Water Code, is amended to
26 read as follows:

27 (b) The notice shall be posted at the courthouse door and at

1 a place [~~four different places~~] inside the proposed district. If
2 the district is located in more than one county, the person posting
3 the notice shall post a copy at the courthouse door in each county
4 in which any portion of the proposed district is located and at a
5 place [~~four separate places~~] inside the boundaries of that portion
6 of the district located in each county. The notice shall be posted
7 for at least 10 days before the date of the hearing.

8 SECTION 24. Section 57.092(a), Water Code, is amended to
9 read as follows:

10 (a) The district may enter into all necessary and proper
11 contracts and employ all persons and means necessary to purchase,
12 acquire, build, construct, complete, carry out, maintain, protect,
13 and, in case of necessity, add to and rebuild all works and
14 improvements necessary or proper to fully accomplish the purposes
15 of the district, including the reclamation of land within the
16 district [~~a reclamation plan lawfully adopted for the district~~].

17 SECTION 25. Section 57.104, Water Code, is amended to read
18 as follows:

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

23 SECTION 26. Section 57.108(b), Water Code, is amended to
24 read as follows:

25 (b) Contracts may be awarded or entered in sections for the
26 purpose of the purchase, acquisition, construction, and
27 improvement of pumping equipment, reservoirs, culverts, bridges,

1 and drainage improvements as these may become necessary[, ~~but as~~
2 ~~funds are available, the district shall comply with Section~~
3 ~~57.104~~].

4 SECTION 27. The heading to Section 57.116, Water Code, is
5 amended to read as follows:

6 Sec. 57.116. ENGINEER'S CONSTRUCTION REPORT.

7 SECTION 28. Section 57.116(a), Water Code, is amended to
8 read as follows:

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

13 SECTION 29. Section 57.117(b), Water Code, is amended to
14 read as follows:

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

20 SECTION 30. Section 57.118, Water Code, is amended to read
21 as follows:

22 Sec. 57.118. COMPLIANCE WITH CONTRACT. After the board
23 receives a report that the contractor has failed to comply with the
24 contract, it shall demand that the contractor comply with the
25 requirements of the contract [~~approved plan of reclamation~~] at his
26 own expense, and no further accounts, claims, or vouchers submitted
27 by the contractor shall be approved or paid until the contractor

1 complies with the requirements of the executive director by
2 constructing the improvement in accordance with the contract [~~plan~~
3 ~~of reclamation~~].

4 SECTION 31. The heading to Subchapter E, Chapter 57, Water
5 Code, is amended to read as follows:

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

7 SECTION 32. Sections 57.177(a) and (c), Water Code, are
8 amended to read as follows:

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

13 (c) If the district creates an indebtedness under this
14 section, the indebtedness may not be more than:

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

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

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

22 SECTION 33. Section 57.208(b), Water Code, is amended to
23 read as follows:

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

27 SECTION 34. Section 57.216, Water Code, is amended to read

1 as follows:

2 Sec. 57.216. PROVIDING FOR ADDITIONAL FUNDS. (a) If the
3 improvements in the engineer's report [~~plan of reclamation adopted~~
4 ~~for the district~~] are insufficient to reclaim all of the land and
5 other property inside the district, extensive repairs or additions
6 to the improvements are necessary, or additional funds are needed
7 to complete improvements, the board may provide additional funds
8 for the district by following the provisions of this chapter for
9 raising funds [~~for the original plan of reclamation~~].

10 (b) If the board creates additional indebtedness or issues
11 additional bonds, the indebtedness or bonds are subject to the
12 provisions of this chapter relating to the issuance of bonds. [~~The~~
13 ~~new or amended plan of reclamation must be approved by the~~
14 ~~commission.~~]

15 SECTION 35. Section 57.260(a), Water Code, is amended to
16 read as follows:

17 (a) If a district levies taxes on the benefit basis, the
18 commissioners court of each county in which any portion of that
19 district is located shall levy and have assessed and collected
20 taxes on all taxable property inside the district, based on the net
21 benefits which the commissioners of appraisal find will accrue
22 to each piece of property from the improvements described in the
23 engineer's report [~~completion of the plan of reclamation~~] or other
24 authorized improvements [~~improvement~~].

25 SECTION 36. Section 57.261, Water Code, is amended to read
26 as follows:

27 Sec. 57.261. APPOINTMENT OF COMMISSIONERS OF APPRAISEMENT.

1 The [~~After the plan of reclamation is approved and adopted, the~~
2 commissioners court of the county of jurisdiction in a district
3 levying taxes on the benefit basis shall appoint three
4 disinterested commissioners, known as "commissioners of
5 appraisement."

6 SECTION 37. Sections 57.265(c) and (d), Water Code, are
7 amended to read as follows:

8 (c) The commissioners of appraisement shall view:

9 (1) the land inside the district;

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

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

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

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

24 SECTION 38. Section 57.266(a), Water Code, is amended to
25 read as follows:

26 (a) The commissioners of appraisement shall prepare a
27 report of their findings. The report shall include:

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

3 (2) a description which will identify each piece of
4 property; and

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

9 SECTION 39. Sections 57.267(b), (c), and (d), Water Code,
10 are amended to read as follows:

11 (b) The notice shall be published in a newspaper published
12 in each county in which any part of the district is located, or in
13 which any land lies that will be in any way affected by the proposed
14 engineer's report [~~plan of reclamation~~]. The notice shall be
15 published once a week for two consecutive weeks before the date of
16 the hearing.

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

18 To the owners and all other persons having any interest in
19 land lying in _____ County, take notice, that a copy of the
20 engineer's report [~~plan of reclamation~~] of the _____ Levee
21 Improvement District has been filed in the district's office [~~with~~
22 ~~the county clerk of this county~~] and that the commissioners of
23 appraisalment have been appointed to assess benefits and damages
24 accruing to land or other property inside or outside the levee
25 improvement district which will be benefited, taken, damaged, or
26 affected in some way by the carrying out of the engineer's report
27 [~~plan of reclamation~~]. The report of the commissioners of

1 appraisalment has been filed in my office at _____, and all
2 interested persons may examine the report and make an objection to
3 all or any part of the report. A person who claims damage to his
4 land and to whose land no damages have been assessed in the report
5 must file a claim for damage in my office on or before _____,
6 [~~19~~]____. A person who fails to make an objection or to file a claim
7 for damages is deemed to have waived his right to object or claim
8 damages. The commissioners of appraisalment will meet on _____,
9 [~~19~~]____, to hear and act on objections to their report and claims
10 for damages.

11 _____
12 Secretary, Board of Directors

13 _____ Levee Improvement District

14 (d) The secretary shall mail written notice to each person
15 whose property is listed in the report of the commissioners of
16 appraisalment, if the office address is known. This notice shall
17 state in substance:

18 (1) that the report of the commissioners of
19 appraisalment assessing benefits and damages accruing to land and
20 other property because of the engineer's report [~~plan of~~
21 ~~reclamation~~] for the district has been filed in the district's
22 [~~secretary's~~] office;

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

25 (3) that the commissioners of appraisalment will meet
26 on the day and at the place named to hear and act on objections to
27 the report.

1 SECTION 40. Sections 57.269(a) and (b), Water Code, are
2 amended to read as follows:

3 (a) An owner of land or other property affected by the
4 report of the commissioners of appraisement or by the engineer's
5 report [~~plan of reclamation~~] may file an objection to any or all
6 parts of the report of the commissioners of appraisement at or
7 before the hearing on the report.

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

12 SECTION 41. Sections 57.270(e), (j), and (k), Water Code,
13 are amended to read as follows:

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

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

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

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

21 (4) a transcript of the action of the commissioners of
22 appraisement on the claim.

23 (j) No appeal may delay carrying out the engineer's report
24 [~~plan of reclamation~~], and if the board pays to the district clerk
25 the amount of damages awarded by the commissioners of appraisement
26 to a claimant who is appealing their decree, and if the board makes
27 bond to pay to the claimant any additional amount that he may be

1 awarded on his appeal, title to the condemned property that is the
2 subject of the appeal vests in the district, and the district is
3 entitled to immediate possession.

4 (k) No person may claim damages against the district, its
5 board, officers, or agents because of the prosecution of the
6 engineer's report [~~plan of reclamation~~] if he owns or has an
7 interest in land in a county in which [~~a copy of the plan of~~
8 ~~reclamation has been filed and in which~~] notice has been published
9 of the hearing before the commissioners of appraisement, and he has
10 failed to file a claim for damages or an objection to the damages
11 assessed by the commissioners of appraisement against his land, or
12 if he has filed a claim or objection but has failed to appeal from an
13 adverse ruling on his claim or objection.

14 SECTION 42. Section 57.273(b), Water Code, is amended to
15 read as follows:

16 (b) If the engineer's report [~~plan of reclamation~~] is
17 changed or modified, or if extensive repairs or additions to the
18 engineer's report [~~plan of reclamation~~] are desired, the board
19 shall file a petition with the commissioners court describing the
20 changes, modifications, repairs, or additions.

21 SECTION 43. Section 57.274(b), Water Code, is amended to
22 read as follows:

23 (b) The commissioners court shall order a reassessment of
24 benefits if it finds that the aggregate amount of assessed benefits
25 as shown by the previous final judgment and decree is insufficient
26 to carry out the original engineer's report [~~plan of reclamation~~]
27 or changes, repairs, or additions to the report [~~plan~~] or there has

1 been a material change in the relative value of the benefits
2 conferred on the property in the district, or for some reason the
3 assessment of benefits is inadequate or inequitable.

4 SECTION 44. Section 57.275(d), Water Code, is amended to
5 read as follows:

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

13 SECTION 45. Section 67.010(d), Water Code, is amended to
14 read as follows:

15 (d) A political subdivision may contract with a corporation
16 under Section 402.014, Local Government Code, to carry out this
17 chapter. If a corporation issues bonds secured by a contract
18 entered into under Section 402.014, Local Government Code, the
19 corporation is considered to be acting for or on behalf of that
20 political subdivision for the purposes of Section 1201.002(1),
21 Government Code. A political subdivision is authorized to approve
22 by ordinance, resolution, or order the articles of incorporation
23 and the bylaws of a corporation that is created for the purpose of
24 constructing facilities under a contract as provided by Section
25 402.014, Local Government Code.

26 SECTION 46. The following provisions are repealed:

27 (1) Sections 54.0163(e), 54.508, 57.094, 57.108(a),

1 57.154(b), and 57.156, Water Code;

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

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

4 SECTION 47. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2003.