

1-1 By: Lindsay S.B. No. 623
1-2 (In the Senate - Filed February 20, 2003; February 26, 2003,
1-3 read first time and referred to Committee on Natural Resources;
1-4 April 7, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 7, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 623 By: Lindsay

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the general powers and authority of water districts.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Subsection (a), Section 388.005, Health and
1-13 Safety Code, is amended to read as follows:
1-14 (a) In this section, "political subdivision" means:
1-15 (1) an affected county; or
1-16 (2) any political subdivision other than:
1-17 (A) a school district in a nonattainment area or
1-18 in an affected county; or
1-19 (B) a district, as defined by Sections 49.001 and
1-20 36.001, Water Code, that had a total annual electricity expense of
1-21 less than \$200,000 in the previous fiscal year of the district.
1-22 SECTION 2. Section 49.068, Water Code, is amended to read as
1-23 follows:
1-24 Sec. 49.068. CONTRACTS WITH GOVERNMENTAL AGENCIES.
1-25 (a) The provisions of this chapter pertaining to bids and the
1-26 Local Government Code notwithstanding, a district may purchase
1-27 property from any governmental entity by negotiated contract
1-28 without the necessity of securing appraisals or advertising for
1-29 bids.
1-30 (b) The provisions of other law or a home-rule municipal
1-31 charter notwithstanding, a municipality may contract with a
1-32 district. The term of a contract under this subsection may be of
1-33 unlimited duration.
1-34 SECTION 3. Section 49.103, Water Code, is amended by adding
1-35 Subsection (h) to read as follows:
1-36 (h) If authorized by the board in the proceedings calling a
1-37 director election, the secretary of the board or the secretary's
1-38 designee, on receipt of the certification required by Section
1-39 2.052(b), Election Code, shall post notice that the election is not
1-40 to be held. The notice must be posted, on or before the
1-41 commencement of early voting, at each polling place that would have
1-42 been used in the election. If the notice is timely posted:
1-43 (1) the board or the board's designee is not required
1-44 to:
1-45 (A) post or publish notice of the election;
1-46 (B) prepare or print ballots and election
1-47 materials; or
1-48 (C) hold early and regular voting; and
1-49 (2) the board shall meet at the earliest practicable
1-50 time to declare each unopposed candidate elected to office.
1-51 SECTION 4. Subsection (a), Section 49.106, Water Code, is
1-52 amended to read as follows:
1-53 (a) Before an election is held to authorize the issuance of
1-54 bonds, other than refunding bonds, there shall be filed in the
1-55 office of the district and open to inspection by the public an
1-56 engineer's report covering the land, improvements, facilities,
1-57 plants, equipment, and appliances to be purchased or constructed
1-58 and their estimated cost, together with maps, plats, profiles, and
1-59 data fully showing and explaining the report. The engineer's
1-60 report is not:
1-61 (1) part of the proposition or propositions to be
1-62 voted on; or
1-63 (2) a contract with the voters.

2-1 SECTION 5. Subsection (a), Section 49.153, Water Code, is
 2-2 amended to read as follows:

2-3 (a) The board, without the necessity of an election, may
 2-4 borrow money on negotiable or non-negotiable notes of the district
 2-5 to be paid solely from the revenues derived from the ownership of
 2-6 all or any designated part of the district's works, plants,
 2-7 improvements, facilities, or equipment after deduction of the
 2-8 reasonable cost of maintaining and operating the facilities.

2-9 SECTION 6. Subsection (a), Section 49.181, Water Code, is
 2-10 amended to read as follows:

2-11 (a) A district may not issue bonds unless the commission
 2-12 determines that the project to be financed by the bonds is feasible
 2-13 and issues an order approving the issuance of the bonds. This
 2-14 section does not apply to:

2-15 (1) refunding bonds if the commission issued an order
 2-16 approving the issuance of the bonds or notes that originally
 2-17 financed the project;

2-18 (2) refunding bonds if the refunding bonds are issued
 2-19 by the district under an agreement between the district and a
 2-20 municipality allowing the issuance of the district's bonds to
 2-21 refund bonds issued by the municipality to pay the cost of financing
 2-22 facilities; or

2-23 (3) bonds issued to and approved by the Farmers Home
 2-24 Administration, the United States Department of Agriculture, or the
 2-25 Texas Water Development Board.

2-26 SECTION 7. Section 49.194, Water Code, is amended by adding
 2-27 Subsection (g) to read as follows:

2-28 (g) All submissions to the executive director required by
 2-29 this section may be made electronically.

2-30 SECTION 8. Subsections (a), (c), and (d), Section 49.226,
 2-31 Water Code, are amended to read as follows:

2-32 (a) Any personal property valued at more than \$300 or any
 2-33 land or interest in land owned by the district which is found by the
 2-34 board to be surplus and is not needed by the district may be sold
 2-35 under order of the board either by public or private sale, or the
 2-36 land, interest in land, or personal property may be exchanged for
 2-37 other land, interest in land, or personal property needed by the
 2-38 district. Except as provided in Subsection (b), land, interest in
 2-39 land, or personal property must be exchanged for like fair market
 2-40 value, which value may be determined by the district. In connection
 2-41 with the sale of surplus land, the board, at its discretion, may
 2-42 impose restrictions on the development and use of the land.

2-43 (c) Before ~~either~~ a public ~~or a private~~ sale of real
 2-44 property, the district shall give notice of the intent to sell by
 2-45 publishing notice once a week for two consecutive weeks in one or
 2-46 more newspapers with general circulation in the district.

2-47 (d) If the district has outstanding bonds secured by a
 2-48 pledge of tax revenues, the proceeds of the sale of property
 2-49 originally acquired with bond proceeds shall be:

2-50 (1) applied to retire outstanding bonds of the
 2-51 district; or

2-52 (2) held and treated as surplus bond proceeds and
 2-53 spent only as provided by the rules of the commission relating to
 2-54 surplus bond proceeds.

2-55 SECTION 9. Subsection (a), Section 49.234, Water Code, as
 2-56 added by Section 15, Chapter 1423, Acts of the 77th Legislature,
 2-57 Regular Session, 2001, is amended to read as follows:

2-58 (a) A district or water supply corporation that operates a
 2-59 wastewater collection system to serve land within its boundaries by
 2-60 rule may prohibit the installation of private on-site wastewater
 2-61 holding or treatment facilities on land within the district that is
 2-62 not served by the district's or corporation's wastewater collection
 2-63 system. A district or corporation that has not received funding
 2-64 under Subchapter K, Chapter 17, may not require a property owner who
 2-65 has ~~already~~ installed an on-site wastewater holding or treatment
 2-66 facility before the adoption of the rule to connect to the
 2-67 district's or corporation's wastewater collection system.

2-68 SECTION 10. Section 49.271, Water Code, is amended by
 2-69 adding Subsection (e) to read as follows:

3-1 (e) A district contract for construction work may include
3-2 economic incentives for early completion of the work or economic
3-3 disincentives for late completion of the work.

3-4 SECTION 11. Section 49.273, Water Code, is amended by
3-5 adding Subsection (1) to read as follows:

3-6 (1) The board is not required to advertise or seek
3-7 competitive bids for security or surveillance systems or components
3-8 of or additions to district facilities relating to security or
3-9 surveillance, including systems used for the prevention of
3-10 terrorist or criminal acts and incidents or acts of war, if the
3-11 board finds that doing so would compromise the safety and security
3-12 of district facilities or residents.

3-13 SECTION 12. Subsection (a), Section 49.278, Water Code, is
3-14 amended to read as follows:

3-15 (a) This subchapter does not apply to:

3-16 (1) equipment, materials, or machinery purchased by
3-17 the district at an auction that is open to the public;

3-18 (2) contracts for personal or professional services or
3-19 for a utility service operator;

3-20 (3) contracts made by a district engaged in the
3-21 distribution and sale of electric energy to the public;

3-22 (4) contracts for services or property for which there
3-23 is only one source or for which it is otherwise impracticable to
3-24 obtain competition; ~~[or]~~

3-25 (5) high technology procurements; or

3-26 (6) contracts for the purchase of electricity for use
3-27 by the district.

3-28 SECTION 13. Section 49.303, Water Code, is amended to read
3-29 as follows:

3-30 Sec. 49.303. EXCLUDING LAND FROM DISTRICT. (a) A district
3-31 may exclude land or other property from the district under this
3-32 subchapter if the district has no outstanding bonds payable in
3-33 whole or in part from taxes.

3-34 (b) If a district has no outstanding [~~Before a district~~
3-35 ~~orders an election for the authorization of]~~ bonds payable in whole
3-36 or in part from taxes, the board may, on its own motion, call a
3-37 hearing on the question of the exclusion of land or other property
3-38 from the district under the provisions of this subchapter [~~section~~
3-39 ~~and Sections 49.304 through 49.307]~~, if the exclusions are
3-40 practicable, just, or desirable.

3-41 [~~(b) The board must call a hearing on the exclusion of land~~
3-42 ~~or other property from the district on the written petition of any~~
3-43 ~~landowner or property owner in the district filed with the~~
3-44 ~~secretary of the board before the first election on the question of~~
3-45 ~~whether bonds should be issued payable in whole or in part from~~
3-46 ~~taxes is ordered.]~~

3-47 (c) If a district has no outstanding bonds payable in whole
3-48 or in part from taxes, the [~~The~~] board may hold a hearing on the
3-49 exclusion of land or other property from the district [~~if the~~
3-50 ~~district has not issued bonds payable in whole or in part from~~
3-51 ~~taxes, and]~~ if a landowner or property owner submits a signed
3-52 petition to the secretary of the board evidencing the consent of the
3-53 owners of a majority of the acreage proposed to be excluded and a
3-54 majority of the taxable property in the district, as reflected by
3-55 the most recent certified tax roll of the district.

3-56 (d) A district that has previously held an election at which
3-57 approval was given for the issuance of bonds payable in whole or in
3-58 part from taxes may not rely on that election for the issuance of
3-59 the bonds if after the bond election, but before the bonds are
3-60 issued, land is excluded from the district as provided by this
3-61 subchapter. The board must call and hold another bond election and
3-62 receive voter approval [~~as provided by this subchapter~~] before
3-63 issuing those bonds.

3-64 (e) A district may not exclude land or other property from
3-65 the district under this subchapter if the district has issued bonds
3-66 payable in whole or in part from taxes and those bonds are
3-67 outstanding.

3-68 SECTION 14. Subsection (a), Section 49.304, Water Code, is
3-69 amended to read as follows:

4-1 (a) If the board determines that an exclusion hearing should
 4-2 be held as provided by Section 49.303[~~(a) or (c), or if a written~~
 4-3 ~~petition requesting an exclusion hearing is filed with the~~
 4-4 ~~secretary of the board as provided by Section 49.303(b)],~~ the board
 4-5 shall give notice of the time and place of a hearing to announce its
 4-6 own conclusions relating to land or other property to be excluded
 4-7 and to receive petitions for exclusion of land or other property.

4-8 SECTION 15. Subsections (a), (k), and (l), Section 49.351,
 4-9 Water Code, are amended to read as follows:

4-10 (a) A district providing potable water or sewer service to
 4-11 household users may establish, operate, and maintain a fire
 4-12 department to perform all fire-fighting services [~~activities~~]
 4-13 within the district as provided in this subchapter and may issue
 4-14 bonds or impose a mandatory fee, with voter approval, for financing
 4-15 a plan approved in accordance with this section, including the
 4-16 construction and purchase of necessary buildings, facilities,
 4-17 land, and equipment and the provision of an adequate water supply.

4-18 (k) In this section, "fire-fighting services [~~activities~~]"
 4-19 means all of the customary and usual services [~~activities~~]
 4-20 of a fire department, including fire suppression, fire prevention, training,
 4-21 safety education, maintenance, communications, medical emergency
 4-22 services, photography, and administration.

4-23 (l) Notwithstanding the requirements of Subsections
 4-24 (a)-(j), a district providing potable water or sewer service to
 4-25 household users may as part of its billing process collect from its
 4-26 customers a voluntary contribution on behalf of organizations
 4-27 providing fire-fighting services [~~activities~~] to the district. A
 4-28 district that chooses to collect a voluntary contribution under
 4-29 this subsection must give reasonable notice to its customers that
 4-30 the contribution is voluntary. Water and sewer service may not be
 4-31 terminated as a result of failure to pay the voluntary
 4-32 contribution.

4-33 SECTION 16. Subsection (d), Section 49.455, Water Code, is
 4-34 amended to read as follows:

4-35 (d) The information form required by this section shall be
 4-36 filed with the county clerk [~~within 48 hours after the effective~~
 4-37 ~~date of this section or]~~ within 48 hours after the district is
 4-38 officially created[~~, whichever time comes first~~]. For purposes of
 4-39 this section, the words "officially created" mean the date and hour
 4-40 in which the results of the election to confirm the creation of the
 4-41 district are declared.

4-42 SECTION 17. Subsection (b), Section 54.201, Water Code, is
 4-43 amended to read as follows:

4-44 (b) A district is authorized to purchase, construct,
 4-45 acquire, own, operate, maintain, repair, improve, or extend inside
 4-46 and outside its boundaries any and all works, improvements,
 4-47 facilities, plants, equipment, and appliances necessary to
 4-48 accomplish the purposes of the district authorized by the
 4-49 constitution, this code, or other law [~~its creation~~], including all
 4-50 works, improvements, facilities, plants, equipment, and appliances
 4-51 incident, helpful, or necessary to:

4-52 (1) supply water for municipal uses, domestic uses,
 4-53 power, and commercial purposes and all other beneficial uses or
 4-54 controls;

4-55 (2) collect, transport, process, dispose of, and
 4-56 control all domestic, industrial, or communal wastes whether in
 4-57 fluid, solid, or composite state;

4-58 (3) gather, conduct, divert, and control local storm
 4-59 water or other local harmful excesses of water in a district;

4-60 (4) irrigate the land in a district;

4-61 (5) alter land elevation in a district where it is
 4-62 needed;

4-63 (6) navigate coastal and inland waters of the
 4-64 district; and

4-65 (7) provide parks and recreational facilities for the
 4-66 inhabitants in the district[~~, subject to Subchapter I of this~~
 4-67 ~~chapter~~].

4-68 SECTION 18. Subchapter D, Chapter 54, Water Code, is
 4-69 amended by adding Section 54.202 to read as follows:

5-1 Sec. 54.202. PROHIBITION OF CERTAIN PRIVATE ON-SITE
 5-2 FACILITIES. (a) A district that operates a water supply and
 5-3 distribution system to serve land within its boundaries by rule may
 5-4 prohibit the installation of private on-site water wells on land
 5-5 within the district that is served by the district's water system.
 5-6 A district that has not received funding under Subchapter K,
 5-7 Chapter 17, may not require a property owner who has installed an
 5-8 on-site water well before the adoption of the rule to connect to the
 5-9 district's water system.

5-10 (b) A district that prohibits an installation described by
 5-11 Subsection (a) shall agree to pay the owner of a particular tract
 5-12 the costs of connecting the tract to the district's water system if
 5-13 the distance along a public right-of-way or utility easement from
 5-14 the nearest point of the district's water system to the boundary
 5-15 line of the tract requiring water service is 300 feet or more,
 5-16 subject to commission rules regarding reimbursement of those costs.

5-17 SECTION 19. Subchapter D, Chapter 54, Water Code, is
 5-18 amended by adding Section 54.2052 to read as follows:

5-19 Sec. 54.2052. PLUMBING CODE. Notwithstanding any other
 5-20 law, a district is not required to adopt a plumbing code. A
 5-21 district may adopt and enforce one or more plumbing codes meeting
 5-22 the standards and requirements of the rules and laws of this state
 5-23 and may amend any code adopted to conform to local concerns if the
 5-24 amendment does not substantially vary from rules or laws of this
 5-25 state.

5-26 SECTION 20. Section 54.234, Water Code, is amended to read
 5-27 as follows:

5-28 Sec. 54.234. ACQUIRING ROAD UTILITY DISTRICT POWERS. Any
 5-29 district, which has the power to levy taxes, may~~[, with the approval~~
 5-30 ~~of the commission,]~~ petition the commission [~~Texas Transportation~~
 5-31 ~~Commission]~~ to acquire the powers granted to road utility districts
 5-32 operating pursuant to Chapter 441, Transportation Code, under the
 5-33 authority of Article III, Section 52, Texas Constitution. As soon
 5-34 as practicable after such petition has been filed with the
 5-35 commission [~~Texas Transportation Commission], the commission
 5-36 ~~[Texas Transportation Commission shall conduct a hearing in~~
 5-37 ~~accordance with Chapter 441, Transportation Code, and]~~ shall issue
 5-38 an order [~~in accordance with Chapter 441, Transportation Code,~~
 5-39 either approving or denying such petition. [~~Any district so~~
 5-40 ~~petitioning the Texas Transportation Commission shall conform to~~
 5-41 ~~the rules applicable to the creation and administration of such~~
 5-42 ~~districts as provided by Chapter 441, Transportation Code.]~~ In the
 5-43 event of any conflict between the provisions of the Water Code and
 5-44 the general laws of this state applicable to the district and the
 5-45 provisions of Chapter 441, Transportation Code, the provisions of
 5-46 the Water Code and the general laws of this state applicable to the
 5-47 district shall prevail.~~

5-48 SECTION 21. Section 54.503, Water Code, is amended to read
 5-49 as follows:

5-50 Sec. 54.503. MANNER OF REPAYMENT OF BONDS. The board may
 5-51 provide for the payment of principal of and interest and redemption
 5-52 price on the bonds in any one of the following manners:

5-53 (1) from the levy and collection of ad valorem taxes on
 5-54 all taxable property within the district;

5-55 (2) by pledging all or any part of the designated
 5-56 revenues to result from the ownership or operation of the
 5-57 district's works, improvements, facilities, plants, equipment, and
 5-58 appliances or under specific contracts for the period of time the
 5-59 board determines;

5-60 (3) by pledging all or part of any funds or revenues
 5-61 available to the district; or

5-62 (4) a combination of the sources set forth in
 5-63 Subdivisions (1), [~~and~~] (2), and (3) [~~of this section~~].

5-64 SECTION 22. Section 54.505, Water Code, is amended to read
 5-65 as follows:

5-66 Sec. 54.505. ELECTION ON TAX BONDS. Bonds payable solely
 5-67 from revenues may be issued by resolution or order of the board
 5-68 without an election, but no bonds, except refunding bonds, payable
 5-69 wholly or partially from ad valorem taxes shall be issued until

6-1 authorized by a majority vote of the resident electors of the
 6-2 district voting in an election called and held for that purpose. An
 6-3 election is not required to pledge revenues to the payment of bonds.

6-4 SECTION 23. Section 54.739, Water Code, is amended to read
 6-5 as follows:

6-6 Sec. 54.739. SUBSTITUTING LAND OF EQUAL [ACREAGE AND]
 6-7 VALUE. After the district is organized and acquires facilities
 6-8 with which to function for the purposes for which it was organized,
 6-9 and votes, issues and sells bonds for such purposes, land within the
 6-10 district boundaries subject to taxation that does not need or
 6-11 utilize the services of the district may be excluded and other land
 6-12 not within the boundaries of the district may be included within the
 6-13 boundaries of the district without impairment of the security for
 6-14 payment of the bonds or invalidation of any prior bond election, as
 6-15 provided by [the provisions of] this section and Sections 54.740
 6-16 [54.741] through 54.747 [54.748 subject to commission approval].

6-17 SECTION 24. Section 54.744, Water Code, is amended to read
 6-18 as follows:

6-19 Sec. 54.744. IMPAIRMENT OF SECURITY. For purposes of the
 6-20 board's consideration of the applications, the lands proposed for
 6-21 inclusion shall be deemed to be sufficient to avoid an impairment of
 6-22 the security for payment of obligations of the district if:

6-23 (1) according to the most recent [county] tax rolls of
 6-24 the district or the most recently certified estimates of taxable
 6-25 value from the chief appraiser of the appropriate appraisal
 6-26 district, the taxable value of such included lands equals or
 6-27 exceeds the taxable value of the excluded lands;

6-28 (2) either the estimated costs of providing district
 6-29 facilities and services to such included lands is equal to or less
 6-30 than the estimated costs of providing district facilities and
 6-31 services to the excluded lands or any increased estimated costs of
 6-32 providing district facilities and services to the included land, as
 6-33 determined by the district's engineer, can be amortized at
 6-34 prevailing bond interest rates and maturity schedules and the
 6-35 prevailing debt service tax rate of the district, as determined by
 6-36 the district's professional financial advisor, when applied to the
 6-37 increase in taxable value of the included land over the taxable
 6-38 value of the excluded land; and

6-39 (3) the district's outstanding bonds or contract
 6-40 obligations are payable in whole or in part by a pledge of net
 6-41 revenues from the ownership or operation of the district's
 6-42 facilities, and the projected net revenues to be derived from the
 6-43 lands to be included during the succeeding 12-month period, as
 6-44 determined by the district's engineer, equals or exceeds the
 6-45 projected net revenues that would otherwise have been derived from
 6-46 the lands to be excluded during the same period.

6-47 SECTION 25. Subsection (b), Section 57.015, Water Code, is
 6-48 amended to read as follows:

6-49 (b) The notice shall be posted at the courthouse door and at
 6-50 a place [four different places] inside the proposed district. If
 6-51 the district is located in more than one county, the person posting
 6-52 the notice shall post a copy at the courthouse door in each county
 6-53 in which any portion of the proposed district is located and at a
 6-54 place [four separate places] inside the boundaries of that portion
 6-55 of the district located in each county. The notice shall be posted
 6-56 for at least 10 days before the date of the hearing.

6-57 SECTION 26. Subsection (a), Section 57.092, Water Code, is
 6-58 amended to read as follows:

6-59 (a) The district may enter into all necessary and proper
 6-60 contracts and employ all persons and means necessary to purchase,
 6-61 acquire, build, construct, complete, carry out, maintain, protect,
 6-62 and, in case of necessity, add to and rebuild all works and
 6-63 improvements necessary or proper to fully accomplish the purposes
 6-64 of the district, including the [a] reclamation of land within [plan
 6-65 lawfully adopted for] the district.

6-66 SECTION 27. Section 57.104, Water Code, is amended to read
 6-67 as follows:

6-68 Sec. 57.104. CONSTRUCTION OF [DUTY TO CONSTRUCT APPROVED]
 6-69 IMPROVEMENTS. The district may [shall] construct all improvements

7-1 necessary or convenient to accomplish the purposes of the district
7-2 ~~[included in the plan of reclamation approved by the commission].~~

7-3 SECTION 28. Subsection (b), Section 57.108, Water Code, is
7-4 amended to read as follows:

7-5 (b) Contracts may be awarded or entered in sections for the
7-6 purpose of the purchase, acquisition, construction, and
7-7 improvement of pumping equipment, reservoirs, culverts, bridges,
7-8 and drainage improvements as these may become necessary~~[, but as~~
7-9 ~~funds are available, the district shall comply with Section~~
7-10 ~~57.104].~~

7-11 SECTION 29. The heading to Section 57.116, Water Code, is
7-12 amended to read as follows:

7-13 Sec. 57.116. ENGINEER'S CONSTRUCTION REPORT.

7-14 SECTION 30. Subsection (a), Section 57.116, Water Code, is
7-15 amended to read as follows:

7-16 (a) As ~~[the]~~ work ~~[on the plan of reclamation]~~ progresses on
7-17 the district's improvements, the engineer shall make a report to
7-18 the board, showing in detail whether or not the contract is being
7-19 fulfilled.

7-20 SECTION 31. Subsection (b), Section 57.117, Water Code, is
7-21 amended to read as follows:

7-22 (b) If the executive director finds that the work has not
7-23 been done in strict accordance with the contract, he shall
7-24 officially certify this fact, and in the certificate he shall state
7-25 where the contractor has failed to comply with the contract
7-26 ~~[approved plan of reclamation].~~

7-27 SECTION 32. Section 57.118, Water Code, is amended to read
7-28 as follows:

7-29 Sec. 57.118. COMPLIANCE WITH CONTRACT. After the board
7-30 receives a report that the contractor has failed to comply with the
7-31 contract, it shall demand that the contractor comply with the
7-32 requirements of the contract ~~[approved plan of reclamation]~~ at his
7-33 own expense, and no further accounts, claims, or vouchers submitted
7-34 by the contractor shall be approved or paid until the contractor
7-35 complies with the requirements of the executive director by
7-36 constructing the improvement in accordance with the contract ~~[plan~~
7-37 ~~of reclamation].~~

7-38 SECTION 33. The heading to Subchapter E, Chapter 57, Water
7-39 Code, is amended to read as follows:

7-40 SUBCHAPTER E. ENGINEER'S REPORT ~~[PLAN OF RECLAMATION]~~

7-41 SECTION 34. Subsections (a) and (c), Section 57.177, Water
7-42 Code, are amended to read as follows:

7-43 (a) If the district wants to carry out its purposes ~~[plan of~~
7-44 ~~reclamation]~~ without issuing bonds, the board may arrange for
7-45 contributions from landowners or other sources to provide the funds
7-46 required to complete the improvements.

7-47 (c) If the district creates an indebtedness under this
7-48 section, the indebtedness may not be more than:

7-49 (1) the cost of construction of the improvements
7-50 included in the engineer's report ~~[plan of reclamation];~~

7-51 (2) the cost ~~[as approved by the commission]~~ of
7-52 maintaining the improvements for two years; and

7-53 (3) an additional amount equal to 10 percent to meet
7-54 emergencies, modifications, and changes lawfully made, plus
7-55 damages awarded against the district.

7-56 SECTION 35. Subsection (b), Section 57.208, Water Code, is
7-57 amended to read as follows:

7-58 (b) The bonds shall be known as "Levee Improvement Bonds"
7-59 ~~[and shall state on their face the purpose for which they are~~
7-60 ~~issued].~~

7-61 SECTION 36. Section 57.216, Water Code, is amended to read
7-62 as follows:

7-63 Sec. 57.216. PROVIDING FOR ADDITIONAL FUNDS. (a) If the
7-64 improvements in the engineer's report ~~[plan of reclamation adopted~~
7-65 ~~for the district]~~ are insufficient to reclaim all of the land and
7-66 other property inside the district, extensive repairs or additions
7-67 to the improvements are necessary, or additional funds are needed
7-68 to complete improvements, the board may provide additional funds
7-69 for the district by following the provisions of this chapter for

8-1 raising funds [~~for the original plan of reclamation~~].

8-2 (b) If the board creates additional indebtedness or issues
8-3 additional bonds, the indebtedness or bonds are subject to the
8-4 provisions of this chapter relating to the issuance of bonds. [~~The
8-5 new or amended plan of reclamation must be approved by the
8-6 commission.~~]

8-7 SECTION 37. Subsection (a), Section 57.260, Water Code, is
8-8 amended to read as follows:

8-9 (a) If a district levies taxes on the benefit basis, the
8-10 commissioners court of each county in which any portion of that
8-11 district is located shall levy and have assessed and collected
8-12 taxes on all taxable property inside the district, based on the net
8-13 benefits which the commissioners of appraisement find will accrue
8-14 to each piece of property from the improvements described in the
8-15 engineer's report [completion of the plan of reclamation] or other
8-16 authorized improvements [improvement].

8-17 SECTION 38. Section 57.261, Water Code, is amended to read
8-18 as follows:

8-19 Sec. 57.261. APPOINTMENT OF COMMISSIONERS OF APPRAISEMENT.
8-20 The [After the plan of reclamation is approved and adopted, the]
8-21 commissioners court of the county of jurisdiction in a district
8-22 levying taxes on the benefit basis shall appoint three
8-23 disinterested commissioners, known as "commissioners of
8-24 appraisement."

8-25 SECTION 39. Subsections (c) and (d), Section 57.265, Water
8-26 Code, are amended to read as follows:

8-27 (c) The commissioners of appraisement shall view:

- 8-28 (1) the land inside the district;
8-29 (2) other land which will be affected by the engineer's
8-30 report [plan of reclamation] if carried out;
8-31 (3) all public roads, railroads, rights-of-way, and
8-32 other property or improvements located on the land; and
8-33 (4) land inside or outside the district which may be
8-34 acquired under the provisions of this chapter for any purpose
8-35 connected with or incident to carrying out the engineer's report
8-36 [plan of reclamation].

8-37 (d) The commissioners of appraisement shall assess the
8-38 amounts of benefits and all damages that will accrue to any tract of
8-39 land inside the district or any land outside the district which may
8-40 be affected by the engineer's report [plan of reclamation], or any
8-41 public highway, railroad, right-of-way, roadway, or other
8-42 property.

8-43 SECTION 40. Subsection (a), Section 57.266, Water Code, is
8-44 amended to read as follows:

8-45 (a) The commissioners of appraisement shall prepare a
8-46 report of their findings. The report shall include:

- 8-47 (1) the name of the owner of each piece of property
8-48 examined and assessed;
8-49 (2) a description which will identify each piece of
8-50 property; and
8-51 (3) the value of all property to be taken or acquired
8-52 for rights-of-way or any other purposes connected with carrying out
8-53 the engineer's report [plan of reclamation as finally approved by
8-54 the commission].

8-55 SECTION 41. Subsections (b), (c), and (d), Section 57.267,
8-56 Water Code, are amended to read as follows:

8-57 (b) The notice shall be published in a newspaper published
8-58 in each county in which any part of the district is located, or in
8-59 which any land lies that will be in any way affected by the proposed
8-60 engineer's report [plan of reclamation]. The notice shall be
8-61 published once a week for two consecutive weeks before the date of
8-62 the hearing.

8-63 (c) The notice shall be in substantially the following form:
8-64 To the owners and all other persons having any interest in
8-65 land lying in _____ County, take notice, that a copy of the
8-66 engineer's report [plan of reclamation] of the _____ Levee
8-67 Improvement District has been filed in the district's office [with
8-68 the county clerk of this county] and that the commissioners of
8-69 appraisement have been appointed to assess benefits and damages

9-1 accruing to land or other property inside or outside the levee
9-2 improvement district which will be benefited, taken, damaged, or
9-3 affected in some way by the carrying out of the engineer's report
9-4 [~~plan of reclamation~~]. The report of the commissioners of
9-5 appraisement has been filed in my office at _____, and all
9-6 interested persons may examine the report and make an objection to
9-7 all or any part of the report. A person who claims damage to his
9-8 land and to whose land no damages have been assessed in the report
9-9 must file a claim for damage in my office on or before _____, 20
9-10 [~~19~~]. A person who fails to make an objection or to file a claim
9-11 for damages is deemed to have waived his right to object or claim
9-12 damages. The commissioners of appraisement will meet on _____, 20
9-13 [~~19~~], to hear and act on objections to their report and claims
9-14 for damages.

Secretary, Board of Directors

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

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

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

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

SECTION 42. Subsections (a) and (b), Section 57.269, Water Code, are amended to read as follows:

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

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

SECTION 43. Subsections (e), (j), and (k), Section 57.270, Water Code, are amended to read as follows:

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

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

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

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

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

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

(k) No person may claim damages against the district, its board, officers, or agents because of the prosecution of the engineer's report [~~plan of reclamation~~] if he owns or has an interest in land in a county in which [~~a copy of the plan of reclamation has been filed and in which~~] notice has been published of the hearing before the commissioners of appraisement, and he has failed to file a claim for damages or an objection to the damages assessed by the commissioners of appraisement against his land, or

10-1 if he has filed a claim or objection but has failed to appeal from an
10-2 adverse ruling on his claim or objection.

10-3 SECTION 44. Subsection (b), Section 57.273, Water Code, is
10-4 amended to read as follows:

10-5 (b) If the engineer's report [~~plan of reclamation~~] is
10-6 changed or modified, or if extensive repairs or additions to the
10-7 engineer's report [~~plan of reclamation~~] are desired, the board
10-8 shall file a petition with the commissioners court describing the
10-9 changes, modifications, repairs, or additions.

10-10 SECTION 45. Subsection (b), Section 57.274, Water Code, is
10-11 amended to read as follows:

10-12 (b) The commissioners court shall order a reassessment of
10-13 benefits if it finds that the aggregate amount of assessed benefits
10-14 as shown by the previous final judgment and decree is insufficient
10-15 to carry out the original engineer's report [~~plan of reclamation~~]
10-16 or changes, repairs, or additions to the report [~~plan~~] or there has
10-17 been a material change in the relative value of the benefits
10-18 conferred on the property in the district, or for some reason the
10-19 assessment of benefits is inadequate or inequitable.

10-20 SECTION 46. Subsection (d), Section 57.275, Water Code, is
10-21 amended to read as follows:

10-22 (d) If the engineer's report [~~plan of reclamation~~] is
10-23 modified, or if extensive repairs or additions are made, the
10-24 provisions of this section apply to districts that levy taxes on the
10-25 ad valorem basis, but the commissioners of appraisal shall
10-26 assess only the damages which will accrue to the property inside or
10-27 outside the district as a result of the changes in the report
10-28 [~~plan~~].

10-29 SECTION 47. Subsection (d), Section 67.010, Water Code, is
10-30 amended to read as follows:

10-31 (d) A political subdivision may contract with a corporation
10-32 under Section 402.014, Local Government Code, to carry out this
10-33 chapter. If a corporation issues bonds secured by a contract
10-34 entered into under Section 402.014, Local Government Code, the
10-35 corporation is considered to be acting for or on behalf of that
10-36 political subdivision for the purposes of Section 1201.002(1),
10-37 Government Code. A political subdivision is authorized to approve
10-38 by ordinance, resolution, or order the articles of incorporation
10-39 and the bylaws of a corporation that is created for the purpose of
10-40 constructing facilities under a contract as provided by Section
10-41 402.014, Local Government Code.

10-42 SECTION 48. (a) The following provisions of the Water Code
10-43 are repealed:

- 10-44 (1) Subsection (e), Section 54.0163;
- 10-45 (2) Section 54.508;
- 10-46 (3) Section 57.094;
- 10-47 (4) Subsection (a), Section 57.108;
- 10-48 (5) Subsection (b), Section 57.154; and
- 10-49 (6) Section 57.156.

10-50 (b) Subchapter C, Chapter 441, Transportation Code, is
10-51 repealed.

10-52 SECTION 49. This Act takes effect immediately if it
10-53 receives a vote of two-thirds of all the members elected to each
10-54 house, as provided by Section 39, Article III, Texas Constitution.
10-55 If this Act does not receive the vote necessary for immediate
10-56 effect, this Act takes effect September 1, 2003.

10-57 * * * * *