

By: Wentworth

S.B. No. 860

A BILL TO BE ENTITLED

1 AN ACT

2 relating to county maintenance of drainage ditches along public
3 roads in certain counties.

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

5 SECTION 1. Section 254.008, Transportation Code, is amended
6 to read as follows:

7 Sec. 254.008. REGULATION OF PRIVATE DITCHES IN COUNTIES OF
8 100,000 OR LESS. (a) This section applies only in [In] a county
9 with a population of 100,000 or less.

10 (b) The [the] commissioners court by order may:

11 (1) remove the blockage of a ditch on real property
12 that is not owned by the county, if the ditch connects with a
13 drainage ditch constructed or maintained by the county; or

14 (2) provide for the removal or clearance of a blockage
15 from a ditch that is in violation of an order adopted under this
16 section.

17 (c) On the request of the record owner of the property, the
18 commissioners court shall remove or provide for the removal or
19 clearance of a blockage of a ditch on real property not owned by the
20 county if:

21 (1) the property is in a platted residential
22 subdivision;

23 (2) the ditch connects with a drainage ditch
24 constructed or maintained by the county; and

1 (3) the primary source of water carried by the ditch is
2 runoff from roads and ditches maintained by the county.

3 (d) [~~(b)~~] Before a commissioners court acts to remove or
4 clear a blockage under Subsection (b) [~~this section~~], the court
5 shall send a notice by certified mail to the record owners of the
6 property on which the blockage is located in violation of an order
7 adopted under this section. The notice must inform the owners of
8 the order and of the other relevant provisions of this section. The
9 court may not remove or clear the blockage before the 20th day after
10 the date the notice is sent.

11 (e) When acting to remove or clear a blockage under
12 Subsection (c), the county shall ensure that the entire length of
13 the ditch on the property is clear to carry off to a natural
14 waterway all water that may collect in the ditch. The county shall
15 complete the removal before the 45th day after the date of receipt
16 of the request. If the county fails to remove the blockage within
17 that time, the county is liable to the property owner and to
18 adjoining property owners for the cost of removal of the blockage
19 and for property damage, personal injury, or death proximately
20 caused by the blockage.

21 (f) [~~(e)~~] The commissioners court shall pay the costs
22 incurred in clearing or removing a blockage under this section.

23 (g) [~~(d)~~] In this section:

24 (1) "Blockage" means an accumulation of refuse,
25 vegetation, silt, or other matter in a ditch that substantially
26 decreases or stops the flow of water through the ditch.

27 (2) "Ditch" includes a culvert.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2003.