

By: Hinojosa

S.B. No. 947

A BILL TO BE ENTITLED

AN ACT

relating to the exclusion of urban property from irrigation districts and subsequent water use.

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

SECTION 1. Section 1(1), Chapter 707, Acts of the 69th Legislature, Regular Session, 1985 (Article 973c, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Urban property" means land that has been subdivided into town lots, or town lots and blocks, or small parcels of the same general nature of town lots, or town blocks and lots, designed, intended, or suitable for residential or other nonagricultural purposes, as distinguished from farm acreage, including streets, alleys, parkways, parks, and railroad property and rights-of-way within that subdivided land and that is in a subdivision:

(A) that is within the corporate limits or extraterritorial jurisdiction of a city that has subdivision approval jurisdiction under Chapter 42, 43, or 212, Local Government Code;

(B) ~~[the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), or Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), and]~~ for which a plat or map of the subdivision has been filed and recorded in the office of the county clerk of the

1 county in which the subdivision or any part of the subdivision is  
2 located; and

3 (C) that is under a certificate of public  
4 convenience and necessity issued by the applicable state agency or  
5 within the service area of another municipal supplier.

6 SECTION 2. Section 2, Chapter 707, Acts of the 69th  
7 Legislature, Regular Session, 1985 (Article 973c, Vernon's Texas  
8 Civil Statutes), is amended to read as follows:

9 Sec. 2. EXCLUSION OF URBAN PROPERTY. Urban property  
10 located within the boundaries of a district may be excluded from the  
11 district by the board of directors in the manner and on the  
12 conditions provided by this Act. Urban property may be excluded  
13 only after the following have been paid to the district:

14 (1) all taxes, assessments, and other lawful charges  
15 of the district accrued on the property to be excluded, together  
16 with all lawful interest and penalties accrued on those taxes,  
17 assessments, and charges; and

18 (2) the proportionate part of the outstanding bonded  
19 indebtedness or indebtedness in connection with a loan from an  
20 authorized agency of the United States for which the property  
21 proposed to be excluded is liable, as determined under this Act[+  
22 ~~and~~

23 ~~[(3) agreement on a reasonable determined amount to be~~  
24 ~~paid by the city or other supplier of potable water to compensate~~  
25 ~~the district for loss of revenue occasioned by the said exclusion].~~

26 SECTION 3. Section 3, Chapter 707, Acts of the 69th  
27 Legislature, Regular Session, 1985 (Article 973c, Vernon's Texas

Civil Statutes), is amended by adding Subsection (a-1) and amending Subsections (b) and (d) to read as follows:

(a-1) The owners, or the owners at the time of subdivision of the property, may designate the city or other municipal supplier serving the property with potable water as the agent to sign and file the application.

(b) The application must:

(1) include a sworn acknowledgment describing ~~[by the owner or owners of the property;~~

~~[(2) describe]~~ the property to be excluded by identifying the lot or block number of the subdivision and the name or designation of the subdivision as shown on the recorded plat of the subdivision, or by some other method of identification; and

(2) ~~[(3)]~~ state that the property is used or intended to be used for the purposes for which it was subdivided, and that the property is not used or intended to be used, in whole or in part, for agricultural purposes.

(d) The applicant shall also furnish to the district evidence ~~[satisfactory to, or required by, the board of directors]~~ of the applicant's ownership of or the agent's authority for the property proposed to be excluded~~[, and of the right of the applicant to have the property excluded]~~ from the district.

SECTION 4. Section 4, Chapter 707, Acts of the 69th Legislature, Regular Session, 1985 (Article 973c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. CONSIDERATION OF APPLICATION. (a) As soon as practicable after the filing of the application, the board of

1 directors of the district shall consider the application [~~and~~  
2 ~~inquire into all the facts relating to the application considered~~  
3 ~~by the board to be necessary to a determination of whether a public~~  
4 ~~hearing on the application should be held~~].

5 (b) If [~~After consideration and investigation, if~~] the  
6 board finds that all taxes, assessments, and charges of the  
7 district on the property, and interest and penalties on those  
8 amounts, due to the district up to the date of the filing of the  
9 application, have been paid, that the property described in the  
10 application is owned by the applicant or that an authorized agent  
11 has been appointed, that the property is urban property and is not  
12 used or intended to be used for agricultural purposes but will  
13 require a source of treated potable water from the city or other  
14 municipal provider in the service area of which the subdivision is  
15 located, and that the exclusion of the property will not cut off the  
16 district or its facilities from ready and convenient access to  
17 other land remaining in the district for irrigation or other  
18 district purposes, the board shall pass an order approving [~~further~~  
19 ~~consideration of~~] the application. If the board adopts [~~is unable~~  
20 ~~to make any one of these findings, it shall adopt~~] a resolution  
21 rejecting the application, [~~and~~] the resolution of the board  
22 rejecting the application is appealable under Section 49.308, Water  
23 Code [~~final and not subject to review by any other body, tribunal,~~  
24 ~~or authority~~].

25 (c) If the board approves [~~further consideration of~~] the  
26 application, it shall proceed to determine the proportionate amount  
27 of the bonded or contractual indebtedness for which the property to

be excluded is liable as provided by Subsection (d) of this section.

(d) If the district has outstanding bonded indebtedness, the board shall obtain from the chief appraiser a certified copy of the appraised value of all the property to be excluded for the five years immediately preceding the year in which the application is filed, as shown by the tax rolls of the district, and the appraised value of all taxable property in the district according to the most recent tax rolls of the district. The part of the total outstanding bonded indebtedness of the district to be paid by the applicant as a condition precedent to the exclusion of the property is that proportion of the indebtedness, including unpaid interest computed to the date of the order, that the appraised value of the property to be excluded bears to the appraised value of all taxable property in the district according to the most recent tax rolls. If the district has contractual or other indebtedness being repaid on the benefit tax basis, the board shall obtain from the appropriate records the manner in which the tax is assessed, and from those records the district shall calculate the part of the total outstanding indebtedness of the district remaining to be paid attributable to the property to be excluded. The final order of the board approving exclusion [~~further consideration of the application~~] also shall state the amounts required to be paid under [~~by~~] Section 2 of this Act as a condition of the exclusion of the property.

SECTION 5. Section 5, Chapter 707, Acts of the 69th Legislature, Regular Session, 1985 (Article 973c, Vernon's Texas Civil Statutes), is amended to read as follows:

1           Sec. 5. FINAL ORDER OF THE BOARD [~~FURTHER PROCEEDINGS ON~~  
2 ~~APPLICATION~~]. (a) The final order of the board excluding the  
3 property does not take effect [~~approving further consideration of~~  
4 ~~the application has no force or effect, and no further proceeding~~  
5 ~~may be held on the application~~] unless the applicant, on or before  
6 the 20th day [~~within 20 days~~] after the date of adoption of the  
7 final order [~~or within a period of up to 30 days after adoption of~~  
8 ~~the order as ordered by the board~~], deposits with the district the  
9 amounts due under Section 2 of this Act.

10           (b) The district shall record in the deed records in the  
11 county in which the excluded property is located a copy of the order  
12 excluding urban property from the district, certified by the  
13 secretary of the board of directors, as evidence of the exclusion.

14           (c) On the passage of the order, the property excluded does  
15 not constitute a part of the district, and the owner of the  
16 property:

- 17                     (1) has no further liability to the district;
- 18                     (2) has no further liability for any bonded or other  
19 indebtedness of the district; and
- 20                     (3) is not subject to further taxation by the  
21 district.

22           (d) For the purpose of servicing land remaining in the  
23 district, the district retains full rights to maintain and operate  
24 any canals, ditches, pipelines, pumps, or other facilities of the  
25 district located on land excluded by the order.

26           SECTION 6. Section 8, Chapter 707, Acts of the 69th  
27 Legislature, Regular Session, 1985 (Article 973c, Vernon's Texas

Civil Statutes), is amended to read as follows:

Sec. 8. WATER RIGHTS. If [After] the district, under this Act or any other law, excludes urban land from its boundaries [~~that lies within the corporate boundaries or extraterritorial jurisdiction of any city~~], the city or other municipal supplier who proposes to serve the land with a potable water supply may petition the district to convert the proportionate water rights previously allocated for the land from irrigation use rights to municipal use rights for the use and benefit of the city or other municipal supplier. The district shall compute the proportionate water rights available and shall proceed with appropriate administrative proceedings to convert the irrigation use rights to municipal use rights. However, the city or other municipal supplier shall deposit with the district the amount that the district estimates will be its reasonable expenses and attorney's fees incurred in those administrative proceedings before the district is obligated to initiate the administrative proceedings. On approval of the conversion by the Texas ~~[Water]~~ Commission on Environmental Quality, the water shall be delivered to the city or other municipal supplier by the district in the manner those entities may agree to under the Water Code or under an existing contract between the district and the city or other municipal supplier.

SECTION 7. Sections 6 and 7, Chapter 707, Acts of the 69th Legislature, Regular Session, 1985 (Article 973c, Vernon's Texas Civil Statutes), are repealed.

SECTION 8. (a) This Act takes effect September 1, 2003.

(b) The changes in law made by this Act apply to an

1 administrative proceeding under Section 8, Chapter 707, Acts of the  
2 69th Legislature, Regular Session, 1985 (Article 973c, Vernon's  
3 Texas Civil Statutes), as amended by this Act, that is initiated on  
4 or after the effective date of this Act. An administrative  
5 proceeding under that section that is in progress on the effective  
6 date of this Act is governed by the law applicable to that  
7 proceeding in effect immediately before the effective date, and  
8 that law is continued in effect for that purpose.