

**House Bill 3011**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Title 4, Water Code, is amended by adding Chapter 68 to read as follows:

CHAPTER 68. SHIP CHANNEL SECURITY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 68.001. DEFINITIONS. In this chapter:

(1) "Board" means a district's board of directors.

(2) "District" means a ship channel security district created under this chapter.

(3) "Security project" means a project promoting or aiding security in a district.

(4) "Security service" means a service promoting or aiding security in a district.

Sec. 68.002. NATURE OF DISTRICT; PURPOSE. A district is a special district and political subdivision of this state. A district is created under Section 59, Article XVI, Texas Constitution, and is essential to accomplish the purposes of that section and Sections 52 and 52-a, Article III, Texas Constitution.

Sec. 68.003. PUBLIC PURPOSE OF SECURITY PROJECTS. A security project is owned, used, and held for public purposes by the district.

Sec. 68.004. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

Sec. 68.005. GENERAL WATER DISTRICT LAW NOT APPLICABLE. Chapter 49 does not apply to a district.

[Sections 68.006-68.050 reserved for expansion]

SENATE VERSION

SECTION 1. Title 4, Water Code, is amended by adding Chapter 68 to read as follows:

CHAPTER 68. SHIP CHANNEL SECURITY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

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Sec. 68.002. NATURE OF DISTRICT; PURPOSE. A district is a special district and political subdivision of this state. A district is created under Section 59, Article XVI, Texas Constitution, and is essential to accomplish the purposes of that section and Sections 52 and 52-a, Article III, Texas Constitution.

Sec. 68.003. PUBLIC PURPOSE OF SECURITY PROJECTS. A security project is owned, used, and held for public purposes by the district.

Sec. 68.004. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

Sec. 68.005. GENERAL WATER DISTRICT LAW NOT APPLICABLE. Chapter 49 does not apply to a district.

[Sections 68.006-68.050 reserved for expansion]

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SUBCHAPTER B. FACILITIES

Sec. 68.051. APPLICABILITY TO FACILITIES. (a)

In this section:

(1) "Chemical manufacturers' association" means an association of chemical manufacturers, refiners, and supporting distribution and terminal facility managers that operate in a district.

(2) "Chemical manufacturers' association facility" means a facility owned by a member of a chemical manufacturers' association.

(3) "Mutual aid organization" means an organization that operates in a district and whose:

(A) primary purpose is the promotion of social welfare by providing assistance for the common good and general welfare to and within the communities of its members for emergency fire protection and other public safety matters; and

(B) members include various industries and governmental entities with the resources required to participate in those activities.

(b) This chapter applies to the following types of facilities in the district:

(1) a chemical manufacturers' association facility;

(2) a mutual aid organization facility;

(3) a facility as defined in 46 U.S.C. Section 70101;

(4) a facility described by 33 C.F.R. Section 105.105(a);

(5) a facility subject to an area maritime transportation security plan under 46 U.S.C. Section 70103(b);

(6) a facility subject to 40 C.F.R. Part 112;

(7) a general shipyard facility as defined by 46 C.F.R.

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Section 298.2:

(8) a facility included in one or more of the following categories and codes of the 2007 North American Industry Classification System:

(A) crude petroleum and natural gas extraction, 211111;

(B) petroleum refineries, 324110;

(C) petroleum manufacturing, 325110;

(D) petroleum lubricating oil and grease manufacturing, 324191;

(E) all other petroleum and coal products manufacturing, 324199;

(F) all other chemical and other manufacturing, 311111-339999;

(G) petroleum bulk stations and terminals, 424710;

(H) plastics, chemical, and petroleum wholesalers, 424610, 424690, and 424720;

(I) transportation, including rail, water, and road transportation and pipelines, 486110-486990, 488210, 488390, and 488490;

(J) port and harbor operations, 488310;

(K) marine cargo handling, 488320;

(L) warehousing and storage, including general, refrigerated, farm and other, 493110, 493120, 493130, and 493190; and

(M) deep sea and coastal freight and passenger transportation, 483111-483114; and

(9) a facility described by Subsection (c).

(c) After the district is created, the commissioners court that created the district by order may provide for this chapter to apply to any other facility that the district by

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Section 298.2:

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(A) crude petroleum and natural gas extraction, 211111;

(B) petroleum refineries, 324110;

(C) petroleum manufacturing, 325110;

(D) petroleum lubricating oil and grease manufacturing, 324191;

(E) all other petroleum and coal products manufacturing, 324199;

(F) all other chemical and other manufacturing, 311111-339999;

(G) petroleum bulk stations and terminals, 424710;

(H) plastics, chemical, and petroleum wholesalers, 424610, 424690, and 424720;

(I) transportation, including rail, water, and road transportation and pipelines, 486110-486990, 488210, 488390, and 488490;

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petition requests the court to add.

(d) This chapter does not apply to the following facilities:

(1) a residential property, including a single-family or multifamily residence;

(2) a retail or service business that is not a facility as defined by 46 U.S.C. Section 70101; or

(3) a public access facility as defined by 33 C.F.R. Section 101.105.

Sec. 68.052. DESIGNEES FOR FACILITY OWNERS.

A facility's owner may designate a person:

(1) to act for the owner in connection with a district; and

(2) to bind the owner under this chapter.

[Sections 68.053-68.100 reserved for expansion]

SUBCHAPTER C. CREATION

Sec. 68.101. DISTRICT CREATION BY CERTAIN POPULOUS COUNTIES WITH SHIP CHANNELS. A district may be created only by the commissioners court of a county with a population of 3.3 million or more that has a ship channel in the county.

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(d) This chapter does not apply to the following facilities:

(1) a residential property, including a single-family or multifamily residence;

(2) a retail or service business that is not a facility as defined by 46 U.S.C. Section 70101;

(3) a public access facility as defined by 33 C.F.R. Section 101.105; or

(4) a facility that is not listed under Subsection (b) and that is owned by:

(A) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(B) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(C) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(D) a person who provides to the public cable television or advanced telecommunications services.

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A facility's owner may designate a person:

(1) to act for the owner in connection with a district; and

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[Sections 68.053-68.100 reserved for expansion]

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Sec. 68.102. PETITION FOR CREATION. A district may be created only if the commissioners court of the county in which the district is proposed to be created receives a petition requesting the district's creation. The petition must be signed by:

- (1) the owners of a majority of facilities in the proposed district; and
- (2) the owners of a majority of the assessed value of facilities in the proposed district according to the most recent certified property tax rolls of the county.

Sec. 68.103. CONTENTS OF PETITION; DISTRICT TERRITORY. The petition must:

- (1) propose a name for the district, which must:
  - (A) generally describe the location of the district; and
  - (B) be of the form "\_\_\_\_\_ Ship Channel Security District";
- (2) state the general nature of the security projects and security services to be provided by the district; and
- (3) describe the proposed district territory and the boundaries of **not fewer than** four security zones inside the proposed district.

Sec. 68.104. NOTICE OF HEARING; CONTENTS OF NOTICE. (a) The commissioners court of the county in which a district is proposed to be created shall set a date, time, and place for a hearing to consider the petition received by the commissioners court.

- (b) The commissioners court shall issue public notice of the hearing. The notice must state:
  - (1) the date, time, and place of the hearing; and
  - (2) that any person may appear, present evidence, and

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- (1) the owners of a majority of facilities in the proposed district; and
- (2) the owners of a majority of the assessed value of facilities in the proposed district according to the most recent certified property tax rolls of the county.

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- (1) propose a name for the district, which must:
  - (A) generally describe the location of the district; and
  - (B) be of the form "\_\_\_\_\_ Ship Channel Security District";
- (2) state the general nature of the security projects and security services to be provided by the district; and
- (3) describe the proposed district territory and the boundaries of four **or five** security zones inside the proposed district.

Sec. 68.104. NOTICE OF HEARING; CONTENTS OF NOTICE. (a) The commissioners court of the county in which a district is proposed to be created shall set a date, time, and place for a hearing to consider the petition received by the commissioners court.

- (b) The commissioners court shall issue public notice of the hearing. The notice must state:
  - (1) the date, time, and place of the hearing; and
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testify for or against the creation of the proposed district.  
(c) The commissioners court shall publish the notice in a newspaper of general circulation in the county at least one time at least 30 days before the hearing date.  
Sec. 68.105. HEARING. At the hearing, any interested person may appear in person or by attorney, present evidence, and offer testimony for or against the creation of the proposed district.  
Sec. 68.106. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. After the hearing, the commissioners court shall consider whether to create the proposed district. The commissioners court must make the following findings before approving a petition requesting creation of a district:  
(1) the district will serve a public use and benefit;  
(2) facilities in the district will benefit from the security projects and security services proposed to be provided by the district;  
(3) the creation of the district is in the public interest and useful for the protection of facilities in the district against the threat posed by terrorism; and  
(4) the creation of the district is necessary to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.  
Sec. 68.107. ORDER CREATING DISTRICT; CHANGES. (a) If the commissioners court makes the findings under Section 68.106, the commissioners court by order **shall** create the proposed district.  
(b) The commissioners court may include in the order

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testify for or against the creation of the proposed district.  
(c) The commissioners court shall publish the notice in a newspaper of general circulation in the county at least one time at least 30 days before the hearing date.  
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(1) the district will serve a public use and benefit;  
(2) facilities in the district will benefit from the security projects and security services proposed to be provided by the district;  
(3) the creation of the district is in the public interest and useful for the protection of facilities in the district against the threat posed by terrorism; and  
(4) the creation of the district is necessary to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.  
Sec. 68.107. ORDER CREATING DISTRICT; CHANGES. (a) If the commissioners court makes the findings under Section 68.106, the commissioners court by order **may** create the proposed district.  
(b) The commissioners court may include in the order

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any changes or modifications to the proposed district as the court determines are appropriate to reflect the intent of the petition requesting creation of the district.

[Sections 68.108-68.150 reserved for expansion]

SUBCHAPTER D. BOARD OF DIRECTORS

Sec. 68.151. GOVERNING BODY; COMPOSITION.

A district is governed by a board of at least 10 directors, appointed or serving as follows:

(1) two directors for each security zone appointed by the commissioners court of the county and nominated as provided by Section 68.152;

(2) one director appointed for the district at large by the commissioners court of the county;

(3) one director appointed under **Section 68.153**; and

(4) any director serving under **Section 68.154**.

Sec. 68.152. SECURITY ZONE DIRECTORS. (a) The commissioners court of the county shall appoint two directors for each security zone from a list of two persons nominated by a majority vote of the facility owners in each security zone. Each nominated person must be employed by a facility in the zone.

(b) After reviewing the list, the commissioners court shall approve or disapprove the nominations for each security zone.

(c) If the commissioners court is not satisfied with the list provided for a security zone, the facility owners in the security zone shall provide to the court a new list under Subsection (a).

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[Sections 68.108-68.150 reserved for expansion]

SUBCHAPTER D. BOARD OF DIRECTORS

Sec. 68.151. GOVERNING BODY; COMPOSITION.

A district is governed by a board of at least 10 **but not more than 13** directors, appointed or serving as follows:

(1) two directors for each security zone appointed by the commissioners court of the county and nominated as provided by Section 68.152;

(2) one director appointed for the district at large by the commissioners court of the county **under Section 68.153**;

(3) one director appointed under **Section 68.154**; and

(4) any director serving under **Section 68.155**.

Sec. 68.152. SECURITY ZONE DIRECTORS. (a) The commissioners court of the county shall appoint two directors for each security zone from a list of two persons nominated by a majority vote of the facility owners in each security zone. Each nominated person must be employed by a facility **owner at a facility** in the zone.

(b) After reviewing the list, the commissioners court shall approve or disapprove the nominations for each security zone.

(c) If the commissioners court is not satisfied with the list provided for a security zone, the facility owners in the security zone shall provide to the court a new list under Subsection (a).

**Sec. 68.153. AT-LARGE DIRECTOR. The director**

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Sec. 68.153. MUNICIPAL DIRECTOR. (a) If there is a countywide association of mayors and city councils of municipalities in a county that creates a district, the association shall appoint one director.

(b) If there is not an association described by Subsection (a), the municipalities in the district shall appoint a director. If there is more than one municipality in the district, the governing body of each municipality by resolution may vote in favor of a nominated person and a person who receives the votes of a majority of governing bodies is appointed director.

(c) The director appointed under this section must reside in a municipality adjacent to the largest ship channel in the district.

Sec. 68.154. PORT AUTHORITY; EX OFFICIO DIRECTOR. (a) In this section, "port authority" means a navigation district located wholly or partly in the security district, and created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) If a port authority is located in the district, the

appointed by the commissioners court for the district at large may be:

(1) a person employed by a member of an association that includes steamship owners, operators, and agents and stevedoring and terminal companies and that:

(A) is a Texas nonprofit corporation; and

(B) leases space in the district; or

(2) any other person considered appropriate by the commissioners court.

Sec. 68.154. MUNICIPAL DIRECTOR. (a) If there is a countywide association of mayors and city councils of municipalities in a county that creates a district, the association shall appoint one director.

(b) If there is not an association described by Subsection (a), the municipalities in the district shall appoint a director. If there is more than one municipality in the district, the governing body of each municipality by resolution may vote in favor of a nominated person and a person who receives the votes of a majority of governing bodies is appointed director.

(c) The director appointed under this section must reside in a municipality adjacent to the largest ship channel in the district.

Sec. 68.155. PORT AUTHORITY; EX OFFICIO DIRECTOR. (a) In this section, "port authority" means a navigation district located wholly or partly in the security district, and created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) If a port authority is located in the district, the



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executive director, or a person designated by the executive director, serves as a director. If more than one port authority is located in the district, the executive director, or a person designated by the executive director, of the port authority with the largest territory inside the district serves as a director.

Sec. 68.155. TERMS; INITIAL DIRECTORS. (a) Except as provided by Subsection (b), directors serve staggered two-year terms.

(b) The initial directors shall stagger their terms, with a majority of the directors serving two years, and a minority of directors serving one year. If the initial board has an even number of directors, the terms are staggered equally. If the initial directors cannot agree on the staggering, the directors shall draw lots to determine the directors who serve one-year terms.

Sec. 68.156. VACANCY. A vacancy in the board is filled by the remaining directors by appointing a person who meets the qualifications for the position, who shall serve for the unexpired term.

Sec. 68.157. QUORUM. For purposes of determining whether a quorum of the board is present, a vacant board position is not counted.

Sec. 68.158. OFFICERS. The board shall elect from its directors a presiding officer, a secretary, and any other officers the board considers necessary or appropriate.

Sec. 68.159. COMPENSATION. A director is not entitled to compensation for service on the board, but is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties of a director.

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Sec. 68.160. MEETINGS. (a) The board shall determine the frequency of its meetings and may hold meetings at any time the board determines.

(b) The board shall conduct its meetings in the district.

Sec. 68.161. REMOVAL. The board may remove an appointed director for misconduct or failure to carry out the director's duties on receiving a written petition signed by a majority of the remaining directors.

[Sections 68.162-68.200 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES

Sec. 68.201. GENERAL POWERS OF DISTRICT. (a) A district has all powers necessary or required to accomplish the purposes for which it was created.

(b) A district may do anything necessary, convenient, or desirable to carry out the powers expressly granted or implied by this chapter.

Sec. 68.202. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as provided by this chapter, a district has the powers of a district created under Chapter 375, Local Government Code.

Sec. 68.203. RULES. The district may adopt rules to govern the operation of the district.

Sec. 68.204. NAME CHANGE. A board by resolution may change a district's name.

Sec. 68.205. CONTRACTS; GENERALLY. A district may contract with any person for any district purpose.

Sec. 68.206. SECURITY PROJECTS AND SERVICES. (a) The board shall determine what security projects or security services the district will perform. A security

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Sec. 68.161. MEETINGS. (a) The board shall determine the frequency of its meetings and may hold meetings at any time the board determines.

(b) The board shall conduct its meetings in the district.

Sec. 68.162. REMOVAL. The board may remove an appointed director for misconduct or failure to carry out the director's duties on receiving a written petition signed by a majority of the remaining directors.

[Sections 68.163-68.200 reserved for expansion]

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Sec. 68.203. RULES. The district may adopt rules to govern the operation of the district.

Sec. 68.204. NAME CHANGE. A board by resolution may change a district's name.

Sec. 68.205. CONTRACTS; GENERALLY. A district may contract with any person for any district purpose.

Sec. 68.206. SECURITY PROJECTS AND SERVICES. (a) The board shall determine what security projects or security services the district will perform. A security

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project may include a project eligible for funding under a port security grant program of the United States Department of Homeland Security.

(b) A district may own, operate, and maintain a security project or provide a security service as reasonably necessary to carry out a district power under this chapter.

(c) A district may acquire, construct, complete, develop, own, operate, maintain, and lease a security project or part of a security project or provide a security service inside and outside its boundaries.

Sec. 68.207. CONTRACTS FOR SECURITY PROJECTS OR SERVICES. (a) A district may contract with any person to plan, establish, develop, construct, renovate, maintain, repair, replace, or operate a security project or to provide a security service.

(b) A district may lease to any person a security project or any part of a security project.

(c) A district may contract with any person for the use or operation of a security project or any part of a security project.

Sec. 68.208. CONTRACTS FOR JOINT USE OF SECURITY PROJECT. A district may contract with any person, public or private, for the joint use of a security project.

Sec. 68.209. CONTRACTS WITH DISTRICT BY GOVERNMENTAL ENTITY. This state, a municipality, a county, another political subdivision of this state, or any other person, without further authorization, may contract with the district to accomplish any district purpose.

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(b) A district may own, operate, and maintain a security project or provide a security service as reasonably necessary to carry out a district power under this chapter.

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(c) A district may contract with any person for the use or operation of a security project or any part of a security project.

Sec. 68.208. CONTRACTS FOR JOINT USE OF SECURITY PROJECT. A district may contract with any person, public or private, for the joint use of a security project.

Sec. 68.209. CONTRACTS WITH DISTRICT BY GOVERNMENTAL ENTITY. This state, a municipality, a county, another political subdivision of this state, or any other person, without further authorization, may contract with the district to accomplish any district purpose.

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Sec. 68.210. PROPERTY POWERS; GENERALLY. A district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of any property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this chapter.

Sec. 68.211. SUITS. A district may sue and be sued.

Sec. 68.212. EXEMPTION FROM COMPETITIVE BIDDING LAWS. The competitive bidding laws of this state do not apply to a district.

Sec. 68.213. NO EMINENT DOMAIN POWER. A district may not exercise the power of eminent domain.

[Sections 68.214-68.250 reserved for expansion]

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 68.251. GRANTS; LOANS. A district may apply for and accept a grant or loan from any person, including:

(1) the United States;

(2) this state; and

(3) a political subdivision of this state.

Sec. 68.252. PAYMENT OF EXPENSES. A district may provide for payment of all expenses incurred in its establishment, administration, and operation.

Sec. 68.253. TAXES PROHIBITED. A district may not impose any tax, including a property tax or a sales and use tax.

Sec. 68.254. BONDS PROHIBITED. A district may not issue bonds.

[Sections 68.255-68.300 reserved for expansion]

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Sec. 68.210. PROPERTY POWERS; GENERALLY. A district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of any property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this chapter.

Sec. 68.211. SUITS. A district may sue and be sued.

Sec. 68.212. NO EMINENT DOMAIN POWER. A district may not exercise the power of eminent domain.

[Sections 68.213-68.250 reserved for expansion]

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 68.251. GRANTS; LOANS. A district may apply for and accept a grant or loan from any person, including:

(1) the United States;

(2) this state; and

(3) a political subdivision of this state.

Sec. 68.252. PAYMENT OF EXPENSES. A district may provide for payment of all expenses incurred in its establishment, administration, and operation.

Sec. 68.253. TAXES PROHIBITED. A district may not impose any tax, including a property tax or a sales and use tax.

Sec. 68.254. BONDS PROHIBITED. A district may not issue bonds.

[Sections 68.255-68.300 reserved for expansion]

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SUBCHAPTER G. ASSESSMENTS

Sec. 68.301. AUTHORITY TO IMPOSE ASSESSMENT. The board may impose an assessment against facilities for any district purpose.

Sec. 68.302. PROPOSED ASSESSMENTS. A security project or security service may be financed under this chapter after a hearing notice given as required by this subchapter and a public hearing by the board on the advisability of:

- (1) the security project or security service; and
- (2) the proposed assessments.

Sec. 68.303. NOTICE OF HEARING. (a) Not later than the 30th day before the date of the hearing, the district shall provide notice of the hearing by certified mail, return receipt requested, to each facility owner at the current address of each facility according to the appraisal record maintained by the appraisal district for that facility under Section 25.02, Tax Code.

(b) The notice must include:

- (1) the time and place of the hearing;
- (2) the general nature of the proposed security project or security service;
- (3) the estimated cost of the security project or security service; and
- (4) the proposed method of assessment.

Sec. 68.304. CONDUCTING HEARING; FINDINGS.

(a) A hearing on a proposed security project or security service, whether conducted by the board or a hearing examiner, may be adjourned from time to time.

(b) At the conclusion of the hearing, the board by

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(b) The notice must include:

- (1) the time and place of the hearing;
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- (3) the estimated cost of the security project or security service; and
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(b) At the conclusion of the hearing, the board by

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resolution shall make findings relating to:

- (1) the advisability of the security project or security service;
- (2) the nature of the security project or security service;
- (3) the estimated cost;
- (4) the facilities benefited;
- (5) the method of assessment; and
- (6) the method and time for payment of the assessment.

(c) If a hearing examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearing examiner shall file with the board a report stating the examiner's findings and conclusions for the board's consideration.

Sec. 68.305. FACILITIES TO BE ASSESSED. (a) In accordance with the findings, the board may impose an assessment against all the facilities in the district or any portion of the facilities in the district, and may impose an assessment against fewer facilities than those proposed for assessment in the hearing notice.

(b) Except as provided by Subsection (c), the facilities to be assessed may not include a facility that is not in the district at the time of the hearing unless there is an additional hearing preceded by the required notice.

(c) The owner of a facility described by Subsection (b) may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for the facility.

Sec. 68.306. ASSESSMENT RATE CHANGE. After notice and a hearing, the board by majority vote may increase or decrease the rate of assessment. The board

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resolution shall make findings relating to:

- (1) the advisability of the security project or security service;
- (2) the nature of the security project or security service;
- (3) the estimated cost;
- (4) the facilities benefited;
- (5) the method of assessment; and
- (6) the method and time for payment of the assessment.

(c) If a hearing examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearing examiner shall file with the board a report stating the examiner's findings and conclusions for the board's consideration.

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Sec. 68.306. ASSESSMENT RATE CHANGE. After notice and a hearing, the board by majority vote may increase or decrease the rate of assessment. The board

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must provide notice of the hearing in the manner provided by Section 68.303.

Sec. 68.307. OBJECTIONS; LEVY OF ASSESSMENT. (a) At a hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearing examiner's report, the board shall hear and rule on all objections to each proposed assessment.

(b) The board by majority vote may amend proposed assessments for any facility.

(c) After all objections have been heard and action has been taken with regard to those objections, the board by resolution shall impose the assessments on the facilities and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments.

(d) Periodic installments must be in amounts sufficient to meet annual costs for security projects or security services provided by this chapter and continue for the number of years required to pay for the security projects and security services to be rendered.

(e) If assessments are imposed for more than one security project or security service, the board may provide that assessments collected for one security project or security service may be used for another security project or security service.

(f) The board shall establish a procedure for the use or refund of any assessments in excess of those necessary to finance a security project or security service for which those assessments were collected.

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Sec. 68.308. APPORTIONMENT OF ASSESSMENT.  
The board shall apportion the cost of a security project or security service to be assessed against a facility based on any reasonable assessment plan that results in imposing fair and equitable shares of the cost.

Sec. 68.309. ASSESSMENT ROLL. (a) Once the estimated total cost of a security project or security service is determined, the board shall impose the assessments against each facility against which an assessment may be imposed in the district. The board may impose an annual assessment that is lower but not higher than the initial assessment.

(b) The board shall have an assessment roll prepared showing the assessments against each facility and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

Sec. 68.310. SUPPLEMENTAL ASSESSMENTS.  
After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment:

(1) relating to the total cost of the security project or security service; or

(2) covering delinquencies or costs of collection.

Sec. 68.311. APPEAL. (a) Not later than the 30th day after the date that an assessment is adopted, a facility owner may file a notice appealing the assessment to the board.

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- (b) The board shall set a date to hear the appeal.
- (c) Failure to file the notice in the time required by this section results in loss of the right to appeal the assessment.
- (d) The board may make a reassessment or new assessment of the facility if the assessment against the facility is:
- (1) set aside by a court;
  - (2) found excessive by the board; or
  - (3) determined invalid by the board.
- (e) A reassessment or new assessment under Subsection (d)(1) may not violate the court order that set aside the assessment.
- Sec. 68.312. APPEAL OF RESOLUTION. (a) A facility against which an assessment is made by board resolution may appeal the assessment to a district court in the county in the manner provided for the appeal of contested cases under Chapter 2001, Government Code.
- (b) Review by the district court is by trial de novo.
- Sec. 68.313. FAILURE TO PAY ASSESSMENT; LIENS FOR ASSESSMENTS. (a) If an assessed facility fails to pay an assessment as provided in a district's assessment plan, the district may impose a lien against the facility assessed.
- (b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:
- (1) are a first and prior lien against the property

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- (b) The board shall set a date to hear the appeal.
- (c) Failure to file the notice in the time required by this section results in loss of the right to appeal the assessment.
- (d) The board may make a reassessment or new assessment of the facility if the assessment against the facility is:
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assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

Sec. 68.314. DELINQUENT ASSESSMENTS. A delinquent assessment incurs interest, penalties, and attorney's fees in the same manner as a delinquent ad valorem tax. The owner of a facility may pay at any time the entire assessment, with interest, penalties, and attorney's fees that have accrued on the assessment.

Sec. 68.315. ASSESSMENT OF GOVERNMENTAL ENTITIES AND NONPROFITS. (a) Except as provided by this section, the district may not impose an assessment on:

(1) a governmental entity, including a municipality, county, or other political subdivision; or

(2) an organization exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(b) An entity or organization described by Subsection (a) may contract with a district to pay assessments under terms the district and the entity or organization consider

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assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

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advisable.

[Sections 68.316-68.350 reserved for expansion]

SUBCHAPTER H. DISSOLUTION

Sec. 68.351. DISSOLUTION OF DISTRICT FOR FAILURE TO IMPOSE AN ASSESSMENT. A district is dissolved if the district has not imposed an assessment before the fifth anniversary of the date of the order creating the district under Section 68.107. The county that created the district assumes any district debts or assets.

Sec. 68.352. DISSOLUTION OF DISTRICT BY BOARD VOTE OR OWNER PETITION. (a) The board by majority vote may dissolve the district at any time.

(b) A district may be dissolved as provided by Section 375.262, Local Government Code.

(c) The county that created the district assumes any debts or assets of a dissolved district.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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Same as House version.

CONFERENCE