

BILL ANALYSIS

H.B. 4818
By: Harper-Brown
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

HB 4818 amends Chapter 628, Acts of the 68th Legislature, Regular Session, 1983, which is amended by adding a new Section 4C and amending Section 5.

This is a local bill affecting only the property within the boundary of Dallas County Utility and Reclamation District, a conservation and reclamation district created originally as a Chapter 54 Municipal Utility District in 1973 and converted to a Special Law District pursuant to Chapter 628, Acts of the 68th Legislature, Regular Session, 1983, as Dallas County Utility and Reclamation District (the District). The District is located entirely within the city limits of the City of Irving, Texas.

The first project of the District was to excavate Lake Carolyn, nearly 90' deep in some places, construct levees to protect the Urban Center of the Las Colinas Development, and remove approximately 3,500 acres out of the flood plain. The 3,500 acres in 1973 was valued for tax purposes at \$14,000,000, with the initial bond issue being \$12,000,000 to construct Lake Carolyn.

Since that time, the levees have protected the area and the assessed value of the area for 2008 is \$2,255,239,840.

As a result of Hurricane Katrina, the United States Corps of Engineers and the Federal Emergency Management Administration (FEMA) began a review of all of the levees in the country. The District's levees had recently been re-certified; however, the initial plan proposed by FEMA would have severely limited planned development within the District adjacent to its levees. The City of Irving and the District timely protested the proposed amended map and submitted their own proposal as to the levees. FEMA accepted the proposed amendment, which acceptance is evidenced by a letter from FEMA dated July 31, 2008, attached. Pursuant to that letter, property owners have already and will in the future dedicate Levee Protection Easements and the landowners are proceeding with financing and development of projects.

The purpose of the proposed local legislation in new Section 4C is to validate the FEMA letter by the State Legislature and to preclude it being revoked or cancelled by any party, including state or local governments without the approval of the City of Irving, the District, and the landowners. The bill is, in essence, a statutory "estoppel" based on equity and fairness. The City, the District, and the landowners have all critically adjusted their position based on the FEMA letter.

The other section of the bill, the amendment of Section 5, allows the DCURD Board to establish Directors' pay in accordance with Section 49.060 of the Texas Water Code, attached. The other Districts in the City are governed by the Texas Water Code as to Directors' pay.

RULEMAKING AUTHORITY

The District's Board is authorized pursuant to Section 5 and Section 49.060 of the Texas Water Code to establish Directors' pay at a maximum of \$150.00 per meeting, or \$7,500 per year

ANALYSIS

SECTION 1 adds a new Section 4C that validates a letter from FEMA approving proposed amendments to the 2007 Preliminary Digital Flood Insurance Rate Map and Flood Insurance Study. The letter may not be revoked, rescinded, or altered by any party without the written consent of the City of Irving, the District, and the affected adjacent landowners who executed easements in reliance on the letter.

SECTION 2. Amends Section 5 of the Act and authorizes the District's Board to establish Directors' fees pursuant to Section 49.60 of the Texas Water Code, a maximum of \$150.00 per meeting and \$7,500 annually for each Director.

SECTION 3. Validates all prior governmental and proprietary acts of the District, which section does not apply to pending litigation or if a matter has already been held invalid by a final court judgment.

EFFECTIVE DATE

Effective date of the act is immediate if it receives a two-third vote of all the members elected to each house; otherwise, September 1, 2009.