

By: Harper-Brown

H.B. No. 4818

A BILL TO BE ENTITLED

AN ACT

relating to the Dallas County Utility and Reclamation District.

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

SECTION 1. Chapter 628, Acts of the 68th Legislature, Regular Session, 1983, is amended by adding Section 4C to read as follows:

Sec. 4C. (a) In this section:

(1) "City" means the City of Irving, Texas.

(2) "FEMA" means the Federal Emergency Management Agency.

(3) "The letter" means the letter dated July 31, 2008, and executed by mitigation director Frank Pagano from FEMA to Mayor Herbert Gears approving the city's proposed amendments to FEMA's proposed amendments to the 2007 Preliminary Digital Flood Insurance Rate Map and Flood Insurance Study.

(b) The district initially constructed and maintained levees pursuant to a state-approved plan of reclamation consistent with all state and federal requirements. In 2007 FEMA proposed certain amendments to its Preliminary Digital Flood Insurance Rate Map and Flood Insurance Study. The proposed amendments to the flood insurance rate map, if adopted, would have severely limited planned development within the district adjacent to the levees. The city and the district timely protested the proposed amended map and submitted an alternate set of proposed amendments to FEMA prepared

1 by the city. FEMA reviewed the city's alternate proposed
2 amendments and accepted those amendments, as evidenced by the
3 letter.

4 (c) The city, the district, and the affected adjacent
5 landowners accepted and agreed to the map revisions addressed and
6 approved by the letter. The letter has been relied on and actions
7 were taken or will be taken based on that reliance, namely:

8 (1) levee protection easements were executed, or will
9 be executed, and filed by all of the affected landowners;

10 (2) financing was obtained, or will be obtained, for
11 development in the area of the levees; and

12 (3) development in the area of the levees has begun and
13 will continue.

14 (d) Because of the governmental actions and the reliance on
15 those actions described by this section, the legislature determines
16 and declares that those governmental actions, including the letter
17 and the actions taken in reliance on the letter, are valid and
18 binding and may not be revoked, rescinded, or altered by any party,
19 including this state or any local government, without the written
20 consent of:

21 (1) all the affected adjacent landowners who executed
22 the easements or their respective heirs, successors, or assigns;

23 (2) the city council of the city; and

24 (3) the board of directors of the district.

25 SECTION 2. Section 5, Chapter 628, Acts of the 68th
26 Legislature, Regular Session, 1983, is amended to read as follows:

27 Sec. 5. All powers of the district shall be exercised by a

1 board of five directors. Each director shall serve for his term of
2 office as herein provided and thereafter until his successor shall
3 be appointed and qualified. If any director ceases to possess the
4 qualifications prescribed herein, his office shall be declared
5 vacant by the board of directors and his successor shall be
6 appointed by the City Council of the City of Irving. Each director
7 shall be at least 18 years of age and possess one of the following
8 qualifications: own land within the district subject to taxation;
9 be a qualified voter residing within the district at the time of his
10 qualification as a director; be an agent, employee, officer, or
11 director of any individual, corporation, trust, or partnership that
12 owns or leases real property within the district; or be a resident
13 of the City of Irving and shall qualify by subscribing the
14 constitutional oath of office and by giving bond in the amount of
15 \$5,000 for the faithful performance of his duties. At least three
16 of the five directors shall be qualified as directors under Section
17 49.052(a), Water Code, without consideration of any exceptions from
18 that subsection provided by other provisions of Section 49.052,
19 Water Code. Section 49.052, Water Code, applies to the extent of
20 this section and for no other purpose. All directors' bonds shall
21 be approved by the district's board of directors and recorded in the
22 official bond records of the County Clerk of Dallas County. The
23 five directors serving on the effective date of this Act shall
24 continue as directors of the district and shall remain as directors
25 until their successors are duly appointed and take office on
26 October 1, 1999. Beginning with the first day of October, 1999, the
27 City Council of the City of Irving shall appoint three directors for

1 terms of four years and two directors for terms of two years. On the
2 first day of October of each odd-numbered year thereafter, the
3 directors whose terms expire shall be appointed by the City Council
4 of the City of Irving and shall serve for a term of four years and
5 until their successors are appointed and take office. All
6 vacancies on the board of directors shall be filled by appointment
7 to the unexpired term by the City Council of the City of Irving. The
8 city by its appointment of directors and any other action taken,
9 except the action to dissolve the district under state law or any
10 other specific action taken by the city, which action must be
11 evidenced in writing, directly relating to any bond, note,
12 financial obligation, or contractual obligation of the district,
13 does not assume, agree to pay, or guarantee the payment of any bond,
14 note, or other financial obligation or undertaking of the district,
15 whether in the form of securities or in other contractual forms,
16 including the district's bonds. The directors shall establish in
17 the district's bylaws what shall constitute a quorum for any
18 meeting, and a concurrence of a majority of the quorum shall be
19 necessary in all district matters. The board of directors shall
20 prescribe the method of execution of all contracts, the signing of
21 checks, and the handling of any other matters approved by the board
22 of directors as shown in the official minutes of the district.
23 Annually in the month of October, the board shall reorganize and
24 elect new officers as soon as practicable. The board of directors
25 may designate one or more assistant secretaries and an assistant
26 treasurer, who may but need not be a member of the board of
27 directors. The secretary of the board of directors or one of the

1 assistant secretaries shall be responsible for keeping the minutes
2 of the meetings of the board of directors and all official records
3 of the board and may certify to any action taken by the board of
4 directors. Section 49.060, Water Code, relating to the fees of
5 office and reimbursement of expenses to which a district director
6 is entitled, applies to the district, and the board of directors
7 shall establish fees in accordance with that section. [Each
8 ~~member of the board of directors shall receive a per diem payment of~~
9 ~~\$50 for each regular or special board or committee meeting and shall~~
10 ~~be reimbursed for actual expenses approved by the board of~~
11 ~~directors.] The board of directors shall hold regular and special
12 meetings at such times and on such dates as the board shall
13 determine upon giving of notice as required by the district's
14 bylaws.~~

15 SECTION 3. (a) All governmental and proprietary actions of
16 the Dallas County Utility and Reclamation District taken before the
17 effective date of this Act are validated, ratified, and confirmed
18 in all respects as if the actions had been taken as authorized by
19 law.

20 (b) This section does not apply to any matter that on the
21 effective date of this Act:

22 (1) is involved in litigation if the litigation
23 ultimately results in the matter being held invalid by a final court
24 judgment; or

25 (2) has been held invalid by a final court judgment.

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.