

1-1 By: Harper-Brown (Senate Sponsor - West) H.B. No. 4818
1-2 (In the Senate - Received from the House May 18, 2009;
1-3 May 19, 2009, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 23, 2009, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 23, 2009, sent to
1-6 printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the Dallas County Utility and Reclamation District.
1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-11 SECTION 1. Chapter 628, Acts of the 68th Legislature,
1-12 Regular Session, 1983, is amended by adding Section 4C to read as
1-13 follows:

1-14 Sec. 4C. (a) In this section:
1-15 (1) "City" means the City of Irving, Texas.
1-16 (2) "FEMA" means the Federal Emergency Management
1-17 Agency.

1-18 (3) "The letter" means the letter dated July 31, 2008,
1-19 and executed by mitigation director Frank Pagano from FEMA to Mayor
1-20 Herbert Gears approving the city's proposed amendments to FEMA's
1-21 proposed amendments to the 2007 Preliminary Digital Flood Insurance
1-22 Rate Map and Flood Insurance Study.

1-23 (b) The district initially constructed and maintained
1-24 levees pursuant to a state-approved plan of reclamation consistent
1-25 with all state and federal requirements. In 2007 FEMA proposed
1-26 certain amendments to its Preliminary Digital Flood Insurance Rate
1-27 Map and Flood Insurance Study. The proposed amendments to the flood
1-28 insurance rate map, if adopted, would have severely limited planned
1-29 development within the district adjacent to the levees. The city
1-30 and the district timely protested the proposed amended map and
1-31 submitted an alternate set of proposed amendments to FEMA prepared
1-32 by the city. FEMA reviewed the city's alternate proposed
1-33 amendments and accepted those amendments, as evidenced by the
1-34 letter.

1-35 (c) The city, the district, and the affected adjacent
1-36 landowners accepted and agreed to the map revisions addressed and
1-37 approved by the letter. The letter has been relied on and actions
1-38 were taken or will be taken based on that reliance, namely:

1-39 (1) levee protection easements were executed, or will
1-40 be executed, and filed by all of the affected landowners;

1-41 (2) financing was obtained, or will be obtained, for
1-42 development in the area of the levees; and

1-43 (3) development in the area of the levees has begun and
1-44 will continue.

1-45 (d) Because of the governmental actions and the reliance on
1-46 those actions described by this section, the legislature determines
1-47 and declares that those governmental actions, including the letter
1-48 and the actions taken in reliance on the letter, are valid and
1-49 binding and may not be revoked, rescinded, or altered by any party,
1-50 including this state or any local government, without the written
1-51 consent of:

1-52 (1) all the affected adjacent landowners who executed
1-53 the easements or their respective heirs, successors, or assigns;

1-54 (2) the city council of the city; and

1-55 (3) the board of directors of the district.

1-56 SECTION 2. Section 5, Chapter 628, Acts of the 68th
1-57 Legislature, Regular Session, 1983, is amended to read as follows:

1-58 Sec. 5. All powers of the district shall be exercised by a
1-59 board of five directors. Each director shall serve for his term of
1-60 office as herein provided and thereafter until his successor shall
1-61 be appointed and qualified. If any director ceases to possess the
1-62 qualifications prescribed herein, his office shall be declared
1-63 vacant by the board of directors and his successor shall be
1-64 appointed by the City Council of the City of Irving. Each director

2-1 shall be at least 18 years of age and possess one of the following
 2-2 qualifications: own land within the district subject to taxation;
 2-3 be a qualified voter residing within the district at the time of his
 2-4 qualification as a director; be an agent, employee, officer, or
 2-5 director of any individual, corporation, trust, or partnership that
 2-6 owns or leases real property within the district; or be a resident
 2-7 of the City of Irving and shall qualify by subscribing the
 2-8 constitutional oath of office and by giving bond in the amount of
 2-9 \$5,000 for the faithful performance of his duties. At least three
 2-10 of the five directors shall be qualified as directors under Section
 2-11 49.052(a), Water Code, without consideration of any exceptions from
 2-12 that subsection provided by other provisions of Section 49.052,
 2-13 Water Code. Section 49.052, Water Code, applies to the extent of
 2-14 this section and for no other purpose. All directors' bonds shall
 2-15 be approved by the district's board of directors and recorded in the
 2-16 official bond records of the County Clerk of Dallas County. The
 2-17 five directors serving on the effective date of this Act shall
 2-18 continue as directors of the district and shall remain as directors
 2-19 until their successors are duly appointed and take office on
 2-20 October 1, 1999. Beginning with the first day of October, 1999, the
 2-21 City Council of the City of Irving shall appoint three directors for
 2-22 terms of four years and two directors for terms of two years. On the
 2-23 first day of October of each odd-numbered year thereafter, the
 2-24 directors whose terms expire shall be appointed by the City Council
 2-25 of the City of Irving and shall serve for a term of four years and
 2-26 until their successors are appointed and take office. All
 2-27 vacancies on the board of directors shall be filled by appointment
 2-28 to the unexpired term by the City Council of the City of Irving. The
 2-29 city by its appointment of directors and any other action taken,
 2-30 except the action to dissolve the district under state law or any
 2-31 other specific action taken by the city, which action must be
 2-32 evidenced in writing, directly relating to any bond, note,
 2-33 financial obligation, or contractual obligation of the district,
 2-34 does not assume, agree to pay, or guarantee the payment of any bond,
 2-35 note, or other financial obligation or undertaking of the district,
 2-36 whether in the form of securities or in other contractual forms,
 2-37 including the district's bonds. The directors shall establish in
 2-38 the district's bylaws what shall constitute a quorum for any
 2-39 meeting, and a concurrence of a majority of the quorum shall be
 2-40 necessary in all district matters. The board of directors shall
 2-41 prescribe the method of execution of all contracts, the signing of
 2-42 checks, and the handling of any other matters approved by the board
 2-43 of directors as shown in the official minutes of the district.
 2-44 Annually in the month of October, the board shall reorganize and
 2-45 elect new officers as soon as practicable. The board of directors
 2-46 may designate one or more assistant secretaries and an assistant
 2-47 treasurer, who may but need not be a member of the board of
 2-48 directors. The secretary of the board of directors or one of the
 2-49 assistant secretaries shall be responsible for keeping the minutes
 2-50 of the meetings of the board of directors and all official records
 2-51 of the board and may certify to any action taken by the board of
 2-52 directors. Section 49.060, Water Code, relating to the fees of
 2-53 office and reimbursement of expenses to which a district director
 2-54 is entitled, applies to the district, and the board of directors
 2-55 shall establish fees in accordance with that section. [Each
 2-56 ~~member of the board of directors shall receive a per diem payment of~~
 2-57 ~~\$50 for each regular or special board or committee meeting and shall~~
 2-58 ~~be reimbursed for actual expenses approved by the board of~~
 2-59 ~~directors.] The board of directors shall hold regular and special
 2-60 meetings at such times and on such dates as the board shall
 2-61 determine upon giving of notice as required by the district's
 2-62 bylaws.~~

2-63 SECTION 3. (a) All governmental and proprietary actions of
 2-64 the Dallas County Utility and Reclamation District taken before the
 2-65 effective date of this Act are validated, ratified, and confirmed
 2-66 in all respects as if the actions had been taken as authorized by
 2-67 law.

2-68 (b) This section does not apply to any matter that on the
 2-69 effective date of this Act:

3-1 (1) is involved in litigation if the litigation
3-2 ultimately results in the matter being held invalid by a final court
3-3 judgment; or

3-4 (2) has been held invalid by a final court judgment.

3-5 SECTION 4. This Act takes effect immediately if it receives
3-6 a vote of two-thirds of all the members elected to each house, as
3-7 provided by Section 39, Article III, Texas Constitution. If this
3-8 Act does not receive the vote necessary for immediate effect, this
3-9 Act takes effect September 1, 2009.

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