

By: Smith of Harris

H.B. No. 2232

Substitute the following for H.B. No. 2232:

By: Fletcher

C.S.H.B. No. 2232

A BILL TO BE ENTITLED

AN ACT

relating to the operation, powers, and duties of ship channel districts.

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

SECTION 1. Section 68.051(c), Water Code, is amended to read as follows:

(c) Except as provided by Subsection (d), after ~~After~~ the district is created, the commissioners court that created the district by order may provide for this chapter to apply to any other type of facility that the district by petition requests the court to add.

SECTION 2. Sections 68.152(a) and (b), Water Code, are amended to read as follows:

(a) The commissioners court of the county shall appoint as ~~two~~ directors for each security zone the one or two nominees as appropriate for the staggering of terms who received the highest number of votes in a ~~from a list of two persons nominated by a majority~~ vote by ~~of~~ the facility owners in each security zone. Each ~~nominated~~ person nominated as a director must be employed by a facility owner at a facility in the zone.

(b) After reviewing the list of persons nominated to be directors, the commissioners court shall approve or disapprove the nominations for each security zone.

SECTION 3. Section 68.156, Water Code, is amended by adding

1 Subsection (c) to read as follows:

2 (c) When a director's term expires, the successor director
3 is appointed in the manner provided by this subchapter for that
4 director position.

5 SECTION 4. Section 68.161, Water Code, is amended to read as
6 follows:

7 Sec. 68.161. MEETINGS. (a) Except as provided by
8 Subsection (c), the [~~The~~] board shall determine the frequency of
9 its meetings and may hold meetings at any time the board determines.

10 (b) The board shall conduct its meetings in this state [~~the~~
11 ~~district~~].

12 (c) The board shall meet at least once per year.

13 (d) The board may combine its annual meeting, or any other
14 meeting, with a hearing held under Section 68.302.

15 (e) At each meeting, the board shall make available to the
16 public the following, except to the extent the board determines
17 that disclosure may jeopardize the safety and security of a
18 facility in the district:

19 (1) an accounting of all federal and district money
20 received and spent by the district during the preceding year;

21 (2) a summary of all security projects implemented by
22 the district, including a report detailing the effectiveness of the
23 security projects;

24 (3) a description of all pending or planned district
25 security projects; and

26 (4) an estimate of the money that will be received
27 through any proposed assessments and a description of how the money

1 will be spent.

2 SECTION 5. Subchapter F, Chapter 68, Water Code, is amended
3 by adding Sections 68.255 and 68.256 to read as follows:

4 Sec. 68.255. QUARTERLY FINANCIAL REPORT BY COMMISSIONERS
5 COURT. The commissioners court shall provide a quarterly financial
6 report to the board. The report must comply with generally accepted
7 accounting principles and list all federal money received by the
8 county and all outstanding obligations by the county to fund the
9 district and its functions.

10 Sec. 68.256. QUARTERLY GENERAL ACCOUNTING BY BOARD. The
11 board shall prepare a quarterly accounting of the district's
12 general operating and maintenance costs. The accounting must
13 comply with generally accepted accounting principles.

14 SECTION 6. Section 68.301, Water Code, is amended to read as
15 follows:

16 Sec. 68.301. AUTHORITY TO IMPOSE ASSESSMENT; HEARING
17 REQUIRED. (a) The board may impose one or more assessments [~~an~~
18 assessment] against one or more facilities for any district
19 purpose, including for general district purposes or for a specific
20 security project or security service.

21 (b) The board may not impose the assessment until the board
22 holds the hearing required by this subchapter.

23 SECTION 7. Section 68.303(a), Water Code, is amended to
24 read as follows:

25 (a) Not later than the 30th day before the date of the
26 hearing, the district shall provide notice of the hearing by
27 certified mail, return receipt requested, to each facility owner:

1 (1) at the current address of each facility according
2 to the appraisal record maintained by the appraisal district for
3 that facility under Section 25.02, Tax Code; or

4 (2) if the appraisal records do not accurately reflect
5 that address or do not show the physical location of a particular
6 facility, at the facility's physical location as reflected by any
7 other information available.

8 SECTION 8. Section 68.307(c), Water Code, is amended to
9 read as follows:

10 (c) After all objections have been heard and action has been
11 taken with regard to those objections, the board by resolution
12 shall impose the assessments on the facilities and shall specify
13 the method of payment of the assessments. A facility shall pay
14 assessments in one lump sum on the date designated by the board,
15 unless the board allows the [~~and may provide that those~~]
16 assessments to be paid in periodic installments under Subsection
17 (d).

18 SECTION 9. Section 68.313, Water Code, is amended by
19 amending Subsection (b) and adding Subsection (d) to read as
20 follows:

21 (b) An assessment, a reassessment, or an assessment
22 resulting from an addition to or correction of the assessment roll
23 by the district, penalties and interest on an assessment or
24 reassessment, an expense of collection, and reasonable attorney's
25 fees incurred by the district:

26 (1) are a first and prior lien against the facility
27 [~~property~~] assessed;

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

4 (3) are the personal liability of and a charge against
5 the owners of the facility [~~property~~] even if the owners are not
6 named in the assessment proceedings.

7 (d) This section applies to a property interest that is a
8 facility listed in Section 68.051(b), including:

9 (1) an improvement or fixture; and

10 (2) an owned or leased property interest.

11 SECTION 10. Chapter 68, Water Code, is amended by adding
12 Subchapter I to read as follows:

13 SUBCHAPTER I. ADDITION AND EXCLUSION OF TERRITORY AND FACILITIES

14 Sec. 68.401. PETITION BY BOARD TO ADD TERRITORY AND
15 FACILITIES. (a) A board may petition the commissioners court of
16 the county that created the district to add to the district
17 territory that contains a facility in the county if the board finds
18 that a security project or security service in the district
19 benefits or will benefit the facility.

20 (b) The petition must describe:

21 (1) the territory to be added;

22 (2) the facilities in the territory to be added; and

23 (3) the total territory of the district after the
24 addition of the territory.

25 (c) The petition must recommend a security zone in which the
26 facility to be added should be included. The board may recommend
27 modifying one or more security zones as necessary to add the

1 facility. The board of a district that has four security zones may
2 also recommend adding a fifth security zone as necessary to add the
3 new facility. The recommendation must also note whether the
4 security zone of any facilities will change if the petition is
5 granted.

6 (d) If any part of an assessment imposed by the board is
7 allocable to the facility to be added, the petition must describe
8 the portion, amount, and payment terms of the portion of the
9 assessment that is allocable to the facility.

10 Sec. 68.402. HEARING AND ACTION ON BOARD'S PETITION TO ADD
11 TERRITORY AND FACILITIES. The commissioners court:

12 (1) shall publish notice and conduct a hearing on the
13 petition under Sections 68.104 and 68.105; and

14 (2) may grant the petition if the commissioners court
15 determines that a security project or security service in the
16 district benefits or will benefit the facility.

17 Sec. 68.403. PETITION BY FACILITY OWNER TO ADD TERRITORY
18 AND FACILITIES. (a) The owner of a facility in the county may
19 petition the board of a district requesting that the board petition
20 the commissioners court to add to the district territory that
21 contains the facility in the county. The petition must describe the
22 territory and facility to be added and be signed by each owner of
23 the facility.

24 (b) If the board grants the petition, the board shall
25 petition the commissioners court to add the territory and make
26 recommendations to the court under Subsection (d).

27 (c) The petition the board submits to the commissioners

1 court must describe:

2 (1) the territory to be added;

3 (2) the facilities in the territory to be added; and

4 (3) the total territory of the district after the
5 addition of the territory.

6 (d) The board shall recommend the security zone in which the
7 facility to be added should be included. The board may recommend
8 modifying one or more security zones as necessary to add the
9 facility. The board of a district that has four security zones may
10 also recommend adding a fifth security zone as necessary to add the
11 new facility. The recommendation must also note whether the
12 security zone of any facilities will change if the petition is
13 granted.

14 (e) If any part of an assessment imposed by the board is
15 allocable to the facility to be added, the board must include with
16 the petition it forwards to the commissioners court a description
17 of the portion, amount, and payment terms of the portion of the
18 assessment that is allocable to the facility.

19 Sec. 68.404. ACTION ON FACILITY OWNER'S PETITION TO ADD
20 TERRITORY AND FACILITIES. The commissioners court may grant the
21 petition.

22 Sec. 68.405. MODIFICATION OF ORDER. A commissioners court
23 that adds territory under this subchapter shall modify the order
24 that created the district under Section 68.107 to:

25 (1) modify the territory;

26 (2) add the facility;

27 (3) describe any security zones created or modified

1 under this section, including the location of any facilities whose
2 zone has changed;

3 (4) identify the security zone in which the added
4 facility is located; and

5 (5) describe the portion, amount, and terms of payment
6 of an assessment imposed by the board that is allocable to the
7 facility.

8 Sec. 68.406. PETITION BY BOARD TO EXCLUDE TERRITORY AND
9 FACILITIES. (a) On the request of a facility in the district or on
10 its own motion, a board may petition the commissioners court of the
11 county that created the district to exclude territory and included
12 facilities from the district. The petition must include:

13 (1) a finding by the board that excluding the
14 territory is practical, just, and reasonable;

15 (2) a description of the territory to be excluded; and

16 (3) a description of the total territory of the
17 district after the exclusion of the territory.

18 (b) The petition may include recommendations to:

19 (1) modify one or more security zones or eliminate a
20 security zone, provided that the district may not have fewer than
21 four security zones; and

22 (2) modify assessments that the facility has not paid.

23 Sec. 68.407. HEARING AND ACTION ON BOARD'S PETITION TO
24 EXCLUDE TERRITORY AND FACILITIES. (a) The commissioners court:

25 (1) shall publish notice and conduct a hearing on the
26 petition under Sections 68.104 and 68.105; and

27 (2) may grant the petition if the commissioners court

1 finds that exclusion of the territory that contains the facility is
2 practical, just, and reasonable.

3 (b) A commissioners court that excludes territory under
4 this section shall modify the order that created the district under
5 Section 68.107 to:

6 (1) modify the territory;

7 (2) exclude the facility;

8 (3) describe any security zones modified or eliminated
9 under this section, including the location of any facilities whose
10 zone has changed; and

11 (4) modify unpaid assessments, as applicable.

12 SECTION 11. Section 68.152, Water Code, as amended by this
13 Act, applies only to a director nominated on or after the effective
14 date of this Act. A director nominated before the effective date of
15 this Act is governed by the law in effect when the nomination was
16 made, and that law is continued in effect for that purpose.

17 SECTION 12. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2011.