

By: Smith of Harris

H.B. No. 2232

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation, powers, and duties of ship channel
3 districts.

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

5 SECTION 1. Section 68.001, Water Code, is amended by adding
6 Subdivision (2-a) to read as follows:

7 (2-a) "Facility" includes any interest in real
8 property, including fixtures, improvements, leasehold interests,
9 easements, licenses, and related rights.

10 SECTION 2. Section 68.051(c), Water Code, is amended to
11 read as follows:

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

17 SECTION 3. Sections 68.152(a) and (b), Water Code, are
18 amended to read as follows:

19 (a) The commissioners court of the county shall appoint as
20 ~~[two]~~ directors for each security zone the two nominees who
21 received the highest number of votes in a ~~[from a list of two~~
22 ~~persons nominated by a majority]~~ vote by ~~[of]~~ the facility owners in
23 each security zone. Each ~~[nominated]~~ person nominated as a
24 director must be employed by a facility owner at a facility in the

1 zone.

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

5 SECTION 4. Section 68.156, Water Code, is amended by adding
6 Subsection (c) to read as follows:

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

10 SECTION 5. Section 68.161(b), Water Code, is amended to
11 read as follows:

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

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

16 Sec. 68.301. AUTHORITY TO IMPOSE ASSESSMENT. The board may
17 impose one or more assessments [~~an assessment~~] against one or more
18 facilities for any district purpose, including for general district
19 purposes or for a specific security project or security service.
20 The board may impose the assessments against all facilities or
21 against a specific facility or group of facilities.

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

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

27 (1) at the current address of each facility according

1 to the appraisal record maintained by the appraisal district for
2 that facility under Section 25.02, Tax Code; or

3 (2) if the appraisal records do not accurately reflect
4 that address, at the facility's physical location as reflected by
5 any other information available.

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

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

15 SECTION 9. Section 68.313(b), Water Code, is amended to
16 read as follows:

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

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

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

27 (3) are the personal liability of and a charge against

1 the owners of the facility [~~property~~] even if the owners are not
2 named in the assessment proceedings.

3 SECTION 10. Subchapter G, Chapter 68, Water Code, is
4 amended by adding Section 68.316 to read as follows:

5 Sec. 68.316. FACILITY OWNER'S OBLIGATIONS. (a) An
6 assessment imposed by the board is a continuing and direct
7 obligation of the owner of the facility on which the assessment is
8 imposed regardless of whether the person owned the facility at the
9 time the assessment was imposed.

10 (b) The obligation to pay an assessment is not affected by a
11 change in the:

- 12 (1) ownership of the facility;
- 13 (2) type of facility;
- 14 (3) improvements that are part of the facility; or
- 15 (4) district's territory.

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

18 SUBCHAPTER I. ADDITION AND EXCLUSION OF TERRITORY AND FACILITIES

19 Sec. 68.401. ADDITION OF TERRITORY AND FACILITIES BY BOARD.

20 (a) A board may petition the commissioners court of the county that
21 created the district to add to the district territory that contains
22 a facility in the county if the board finds that a security project
23 or security service in the district benefits or will benefit the
24 facility.

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

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

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

8 (d) The commissioners court:

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

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

14 Sec. 68.402. ADDITION OF TERRITORY AND FACILITIES BY
15 FACILITY OWNER. (a) The owner of a facility in the county may
16 petition the board of a district to add to the district territory
17 that contains the facility in the county. The petition must
18 describe the territory and facility to be added and be signed by
19 each owner of the facility.

20 (b) If the board grants the petition, the board shall
21 forward the petition to the commissioners court and make
22 recommendations to the court under Subsection (c).

23 (c) The board shall recommend the security zone in which the
24 facility to be added should be included. The board may recommend
25 modifying a security zone as necessary to add the facility. The
26 board of a district that has four security zones may also recommend
27 adding a fifth security zone as necessary to add the new facility.

1 The recommendation must also note whether the security zone of any
2 facilities will change if the petition is granted.

3 (d) If any part of an assessment imposed by the board is
4 allocable to the facility to be added, the board must include with
5 the petition it forwards to the commissioners court a description
6 of the portion, amount, and terms of the assessment.

7 (e) The commissioners court shall grant the petition.

8 Sec. 68.403. MODIFICATION OF ORDER. A commissioners court
9 that adds territory under this subchapter shall modify the order
10 that created the district under Section 68.107 to:

11 (1) modify the territory;

12 (2) add the facility;

13 (3) describe any security zones created or modified
14 under this section, including the location of any facilities whose
15 zone has changed;

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

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

21 Sec. 68.404. EXCLUSION OF TERRITORY AND FACILITIES BY
22 BOARD. (a) A board may petition the commissioners court of the
23 county that created the district to exclude territory from the
24 district that contains a facility. The petition must include a
25 finding by the board that excluding the territory is practical,
26 just, and desirable.

27 (b) The petition may include recommendations to:

1 (1) modify or eliminate a security zone, including
2 whether to change the location of any facilities that will remain in
3 the district, provided that the district may not have fewer than
4 four security zones; and

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

6 (c) The commissioners court:

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

9 (2) may grant the petition if the commissioners court
10 finds that exclusion of the territory that contains the facility is
11 practical, just, and desirable.

12 (d) A commissioners court that excludes territory under
13 this section shall modify the order that created the district under
14 Section 68.107 to:

15 (1) modify the territory;

16 (2) exclude the facility;

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

20 (4) modify unpaid assessments, as applicable.

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

26 SECTION 13. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2011.