

By: Jackson
(Smith of Harris, Legler)

S.B. No. 1104

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. Subsection (c), Section 68.051, 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. Subsections (a) and (b), Section 68.152, 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 in addition
13 to conducting hearings as necessary under Section 68.302.

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

16 (e) At each annual meeting and at each hearing required by
17 Section 68.302, the board shall make available to the public the
18 following, except to the extent the board determines that
19 disclosure may jeopardize the safety and security of a facility in
20 the district:

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

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

26 (3) a description of all pending or planned district
27 security projects; and

1 (4) an estimate of the money that will be received
2 through any proposed assessments and a description of how the money
3 will be spent.

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

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

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

16 SECTION 6. Section 68.301, Water Code, is amended to read as
17 follows:

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

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

25 SECTION 7. Subsection (a), Section 68.303, Water Code, is
26 amended to read as follows:

27 (a) Not later than the 30th day before the date of the

1 hearing, the district shall provide notice of the hearing by
2 certified mail, return receipt requested, to each facility owner:

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

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

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

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

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

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

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

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

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

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

11 (1) an improvement or fixture; and

12 (2) an owned or leased property interest.

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

15 SUBCHAPTER I. ADDITION AND EXCLUSION OF TERRITORY AND FACILITIES

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

22 (b) The petition must describe:

23 (1) the territory to be added;

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

25 (3) the total territory of the district after the
26 addition of the territory.

27 (c) The petition must recommend a security zone in which the

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

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

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

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

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

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

26 (b) If the board grants the petition, the board shall
27 petition the commissioners court to add the territory and make

1 recommendations to the court under Subsection (d).

2 (c) The petition the board submits to the commissioners
3 court must describe:

4 (1) the territory to be added;

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

6 (3) the total territory of the district after the
7 addition of the territory.

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

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

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

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

27 (1) modify the territory;

1 (2) add the facility;

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

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

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

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

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

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

18 (3) a description of the total territory of the
19 district after the exclusion of the territory.

20 (b) The petition may include recommendations to:

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

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

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

27 (1) shall publish notice and conduct a hearing on the

1 petition under Sections 68.104 and 68.105; and

2 (2) may grant the petition if the commissioners court
3 finds that exclusion of the territory that contains the facility is
4 practical, just, and reasonable.

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

8 (1) modify the territory;

9 (2) exclude the facility;

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

13 (4) modify unpaid assessments, as applicable.

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

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