

1-1 By: Jackson S.B. No. 1104
1-2 (In the Senate - Filed March 2, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 26, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 April 26, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1104 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the operation, powers, and duties of ship channel
1-11 districts.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (c), Section 68.051, Water Code, is
1-14 amended to read as follows:

1-15 (c) Except as provided by Subsection (d), after [After] the
1-16 district is created, the commissioners court that created the
1-17 district by order may provide for this chapter to apply to any other
1-18 type of facility that the district by petition requests the court to
1-19 add.

1-20 SECTION 2. Subsections (a) and (b), Section 68.152, Water
1-21 Code, are amended to read as follows:

1-22 (a) The commissioners court of the county shall appoint as
1-23 [two] directors for each security zone the one or two nominees as
1-24 appropriate for the staggering of terms who received the highest
1-25 number of votes in a [from a list of two persons nominated by a
1-26 majority] vote by [of] the facility owners in each security zone.
1-27 Each [nominated] person nominated as a director must be employed by
1-28 a facility owner at a facility in the zone.

1-29 (b) After reviewing the list of persons nominated to be
1-30 directors, the commissioners court shall approve or disapprove the
1-31 nominations for each security zone.

1-32 SECTION 3. Section 68.156, Water Code, is amended by adding
1-33 Subsection (c) to read as follows:

1-34 (c) When a director's term expires, the successor director
1-35 is appointed in the manner provided by this subchapter for that
1-36 director position.

1-37 SECTION 4. Section 68.161, Water Code, is amended to read as
1-38 follows:

1-39 Sec. 68.161. MEETINGS. (a) Except as provided by
1-40 Subsection (c), the [The] board shall determine the frequency of
1-41 its meetings and may hold meetings at any time the board determines.

1-42 (b) The board shall conduct its meetings in this state [the
1-43 district].

1-44 (c) The board shall meet at least once per year in addition
1-45 to conducting hearings as necessary under Section 68.302.

1-46 (d) The board may combine its annual meeting, or any other
1-47 meeting, with a hearing held under Section 68.302.

1-48 (e) At each annual meeting and at each hearing required by
1-49 Section 68.302, the board shall make available to the public the
1-50 following, except to the extent the board determines that
1-51 disclosure may jeopardize the safety and security of a facility in
1-52 the district:

1-53 (1) an accounting of all federal and district money
1-54 received and spent by the district during the preceding year;

1-55 (2) a summary of all security projects implemented by
1-56 the district, including a report detailing the effectiveness of the
1-57 security projects;

1-58 (3) a description of all pending or planned district
1-59 security projects; and

1-60 (4) an estimate of the money that will be received
1-61 through any proposed assessments and a description of how the money
1-62 will be spent.

1-63 SECTION 5. Subchapter F, Chapter 68, Water Code, is amended

2-1 by adding Sections 68.255 and 68.256 to read as follows:

2-2 Sec. 68.255. QUARTERLY FINANCIAL REPORT BY COMMISSIONERS
2-3 COURT. The commissioners court shall provide a quarterly financial
2-4 report to the board. The report must comply with generally accepted
2-5 accounting principles and list all federal money received by the
2-6 county and all outstanding obligations by the county to fund the
2-7 district and its functions.

2-8 Sec. 68.256. QUARTERLY GENERAL ACCOUNTING BY BOARD. The
2-9 board shall prepare a quarterly accounting of the district's
2-10 general operating and maintenance costs. The accounting must
2-11 comply with generally accepted accounting principles.

2-12 SECTION 6. Section 68.301, Water Code, is amended to read as
2-13 follows:

2-14 Sec. 68.301. AUTHORITY TO IMPOSE ASSESSMENT; HEARING
2-15 REQUIRED. (a) The board may impose one or more assessments [~~an~~
2-16 assessment] against one or more facilities for any district
2-17 purpose, including for general district purposes or for a specific
2-18 security project or security service.

2-19 (b) The board may not impose the assessment until the board
2-20 holds the hearing required by this subchapter.

2-21 SECTION 7. Subsection (a), Section 68.303, Water Code, is
2-22 amended to read as follows:

2-23 (a) Not later than the 30th day before the date of the
2-24 hearing, the district shall provide notice of the hearing by
2-25 certified mail, return receipt requested, to each facility owner:

2-26 (1) at the current address of each facility according
2-27 to the appraisal record maintained by the appraisal district for
2-28 that facility under Section 25.02, Tax Code; or

2-29 (2) if the appraisal records do not accurately reflect
2-30 that address or do not show the physical location of a particular
2-31 facility, at the facility's physical location as reflected by any
2-32 other information available.

2-33 SECTION 8. Subsection (c), Section 68.307, Water Code, is
2-34 amended to read as follows:

2-35 (c) After all objections have been heard and action has been
2-36 taken with regard to those objections, the board by resolution
2-37 shall impose the assessments on the facilities and shall specify
2-38 the method of payment of the assessments. A facility shall pay
2-39 assessments in one lump sum on the date designated by the board,
2-40 unless the board allows the [~~and may provide that those~~
2-41 assessments to be paid in periodic installments under Subsection
2-42 (d).

2-43 SECTION 9. Section 68.313, Water Code, is amended by
2-44 amending Subsection (b) and adding Subsection (d) to read as
2-45 follows:

2-46 (b) An assessment, a reassessment, or an assessment
2-47 resulting from an addition to or correction of the assessment roll
2-48 by the district, penalties and interest on an assessment or
2-49 reassessment, an expense of collection, and reasonable attorney's
2-50 fees incurred by the district:

2-51 (1) are a first and prior lien against the facility
2-52 [~~property~~] assessed;

2-53 (2) are superior to any other lien or claim other than
2-54 a lien or claim for county, school district, or municipal ad valorem
2-55 taxes; and

2-56 (3) are the personal liability of and a charge against
2-57 the owners of the facility [~~property~~] even if the owners are not
2-58 named in the assessment proceedings.

2-59 (d) This section applies to a property interest that is a
2-60 facility listed in Section 68.051(b), including:

2-61 (1) an improvement or fixture; and

2-62 (2) an owned or leased property interest.

2-63 SECTION 10. Chapter 68, Water Code, is amended by adding
2-64 Subchapter I to read as follows:

2-65 SUBCHAPTER I. ADDITION AND EXCLUSION OF TERRITORY AND FACILITIES

2-66 Sec. 68.401. PETITION BY BOARD TO ADD TERRITORY AND
2-67 FACILITIES. (a) A board may petition the commissioners court of
2-68 the county that created the district to add to the district
2-69 territory that contains a facility in the county if the board finds

3-1 that a security project or security service in the district
 3-2 benefits or will benefit the facility.

3-3 (b) The petition must describe:

3-4 (1) the territory to be added;

3-5 (2) the facilities in the territory to be added; and

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

3-8 (c) The petition must recommend a security zone in which the
 3-9 facility to be added should be included. The board may recommend
 3-10 modifying one or more security zones as necessary to add the
 3-11 facility. The board of a district that has four security zones may
 3-12 also recommend adding a fifth security zone as necessary to add the
 3-13 new facility. The recommendation must also note whether the
 3-14 security zone of any facilities will change if the petition is
 3-15 granted.

3-16 (d) If any part of an assessment imposed by the board is
 3-17 allocable to the facility to be added, the petition must describe
 3-18 the portion, amount, and payment terms of the portion of the
 3-19 assessment that is allocable to the facility.

3-20 Sec. 68.402. HEARING AND ACTION ON BOARD'S PETITION TO ADD
 3-21 TERRITORY AND FACILITIES. The commissioners court:

3-22 (1) shall publish notice and conduct a hearing on the
 3-23 petition under Sections 68.104 and 68.105; and

3-24 (2) may grant the petition if the commissioners court
 3-25 determines that a security project or security service in the
 3-26 district benefits or will benefit the facility.

3-27 Sec. 68.403. PETITION BY FACILITY OWNER TO ADD TERRITORY
 3-28 AND FACILITIES. (a) The owner of a facility in the county may
 3-29 petition the board of a district requesting that the board petition
 3-30 the commissioners court to add to the district territory that
 3-31 contains the facility in the county. The petition must describe the
 3-32 territory and facility to be added and be signed by each owner of
 3-33 the facility.

3-34 (b) If the board grants the petition, the board shall
 3-35 petition the commissioners court to add the territory and make
 3-36 recommendations to the court under Subsection (d).

3-37 (c) The petition the board submits to the commissioners
 3-38 court must describe:

3-39 (1) the territory to be added;

3-40 (2) the facilities in the territory to be added; and

3-41 (3) the total territory of the district after the
 3-42 addition of the territory.

3-43 (d) The board shall recommend the security zone in which the
 3-44 facility to be added should be included. The board may recommend
 3-45 modifying one or more security zones as necessary to add the
 3-46 facility. The board of a district that has four security zones may
 3-47 also recommend adding a fifth security zone as necessary to add the
 3-48 new facility. The recommendation must also note whether the
 3-49 security zone of any facilities will change if the petition is
 3-50 granted.

3-51 (e) If any part of an assessment imposed by the board is
 3-52 allocable to the facility to be added, the board must include with
 3-53 the petition it forwards to the commissioners court a description
 3-54 of the portion, amount, and payment terms of the portion of the
 3-55 assessment that is allocable to the facility.

3-56 Sec. 68.404. ACTION ON FACILITY OWNER'S PETITION TO ADD
 3-57 TERRITORY AND FACILITIES. The commissioners court may grant the
 3-58 petition.

3-59 Sec. 68.405. MODIFICATION OF ORDER. A commissioners court
 3-60 that adds territory under this subchapter shall modify the order
 3-61 that created the district under Section 68.107 to:

3-62 (1) modify the territory;

3-63 (2) add the facility;

3-64 (3) describe any security zones created or modified
 3-65 under this section, including the location of any facilities whose
 3-66 zone has changed;

3-67 (4) identify the security zone in which the added
 3-68 facility is located; and

3-69 (5) describe the portion, amount, and terms of payment

4-1 of an assessment imposed by the board that is allocable to the
4-2 facility.

4-3 Sec. 68.406. PETITION BY BOARD TO EXCLUDE TERRITORY AND
4-4 FACILITIES. (a) On the request of a facility in the district or on
4-5 its own motion, a board may petition the commissioners court of the
4-6 county that created the district to exclude territory and included
4-7 facilities from the district. The petition must include:

4-8 (1) a finding by the board that excluding the
4-9 territory is practical, just, and reasonable;

4-10 (2) a description of the territory to be excluded; and

4-11 (3) a description of the total territory of the
4-12 district after the exclusion of the territory.

4-13 (b) The petition may include recommendations to:

4-14 (1) modify one or more security zones or eliminate a
4-15 security zone, provided that the district may not have fewer than
4-16 four security zones; and

4-17 (2) modify assessments that the facility has not paid.

4-18 Sec. 68.407. HEARING AND ACTION ON BOARD'S PETITION TO
4-19 EXCLUDE TERRITORY AND FACILITIES. (a) The commissioners court:

4-20 (1) shall publish notice and conduct a hearing on the
4-21 petition under Sections 68.104 and 68.105; and

4-22 (2) may grant the petition if the commissioners court
4-23 finds that exclusion of the territory that contains the facility is
4-24 practical, just, and reasonable.

4-25 (b) A commissioners court that excludes territory under
4-26 this section shall modify the order that created the district under
4-27 Section 68.107 to:

4-28 (1) modify the territory;

4-29 (2) exclude the facility;

4-30 (3) describe any security zones modified or eliminated
4-31 under this section, including the location of any facilities whose
4-32 zone has changed; and

4-33 (4) modify unpaid assessments, as applicable.

4-34 SECTION 11. Section 68.152, Water Code, as amended by this
4-35 Act, applies only to a director nominated on or after the effective
4-36 date of this Act. A director nominated before the effective date of
4-37 this Act is governed by the law in effect when the nomination was
4-38 made, and that law is continued in effect for that purpose.

4-39 SECTION 12. This Act takes effect immediately if it
4-40 receives a vote of two-thirds of all the members elected to each
4-41 house, as provided by Section 39, Article III, Texas Constitution.
4-42 If this Act does not receive the vote necessary for immediate
4-43 effect, this Act takes effect September 1, 2011.

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