

BILL ANALYSIS

C.S.H.B. 1214
By: Lucio III
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that due to urbanization and changing circumstances, certain water districts that previously delivered mainly irrigation water are now delivering larger amounts of raw, untreated water to municipal suppliers for municipal and industrial use. The parties further note that the boards of directors of these districts have encountered difficulty following certain provisions of law relating to the amount of flat-rate assessment against irrigable land in formulating their annual maintenance and operating expense budgets in cases where larger amounts of water for municipal and industrial use are being delivered. C.S.H.B. 1214 is an omnibus bill that seeks to address these and related issues and is in response to a certain audit report by the state auditor's office that recommended coordination with the Texas Commission on Environmental Quality to determine whether certain modifications to the Water Code may be necessary in regard to such issues.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1214 amends the Water Code to revise and clarify statutory provisions governing water charges and assessments regarding irrigation water of water control and improvement districts, water improvement districts, and irrigation districts. The bill, in statutory provisions requiring a person who desires to receive water at any time during the year to furnish the secretary of the board of directors of such a district a written statement of the acreage the person intends to irrigate and the different crops the person intends to plant with the acreage of each crop, clarifies such water as irrigation water and makes the requirement contingent on it being required by such a board.

C.S.H.B. 1214 authorizes a board of directors of a water control and improvement district or an irrigation district to adopt, alter, and rescind certain rules, applicable regulations, and standing and temporary orders that govern, among other things, charges, fees, rentals, or deposits for maintenance and operation and that govern payment and the enforcement of payment of the charges, fees, rentals, or deposits.

C.S.H.B. 1214 requires a board of a water control and improvement district, a water improvement district, or an irrigation district to estimate the expenses of maintaining and operating the district's water delivery system, rather than its irrigation system, for a 12-month period. The bill removes language requiring not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses to be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system. The bill instead requires a board by order to allocate a portion of the estimated maintenance and operating expenses to be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery system or

through an extension of its water delivery system and makes related clarifying changes regarding such assessment. The bill specifies that the board-determined proportionate amount of the expenses borne by water users are to be borne by all water users receiving water delivery from the district. The bill requires the remainder of the estimated expenses to be paid by applicable assessments, charges, fees, rentals, or deposits required of persons in the district or under contracts with persons who use or who make application to use water and other board-approved charges, rather than requiring the remainder of such expenses to be paid solely by assessments against persons in the district who use or make application to use water. The bill revises the requirement that a board prorate the remainder among the applicants for water to specify such applicants as applicants for irrigation water, to remove the condition that the proration be as equitable as possible among the applicants, and to add the consideration of factors deemed appropriate by the board with respect to water used for nonirrigation uses. The bill authorizes a landowner of irrigable land in a district or a user of water delivered by a district for any purpose other than irrigation who disputes all or a part of a board order that determines the amount of an assessment, charge, fee, rental, or deposit to file a denial of water petition. The bill establishes that such petition filed with the Texas Commission on Environmental Quality (TCEQ) is the sole remedy available to the landowner or user of such water.

C.S.H.B. 1214 revises assessment notice requirements. The bill decreases from once a week to once a month the frequency with which an assessor and collector who collects assessments for district maintenance and operating expenses is required to file with the secretary of a board a statement of all money collected. The bill requires the owner of crops against which a district has a lien and that are cultivated on a basis other than annual replanting to record with the county clerk of the county where the land on which the crops are cultivated is located a legally sufficient description of the land, including a metes and bounds description or a plat reference. The bill expands the conditions under which a person's water service is discontinued to include failure of a person to pay an applicable charge, fee, rental, deposit, or penalty when due. The bill authorizes a landowner or person whose water service has been discontinued to request that a board reconsider the discontinuance related to a charge, fee, rental, deposit, or penalty, and prohibits the landowner or person from requesting that the board reconsider a discontinuance related to an assessment. The bill authorizes the landowner or person to file a denial of water petition if the board declines to reconsider the discontinuance and establishes that such petition filed with TCEQ is the sole remedy available to the landowner or person. The bill expands authorization for suits for delinquent water assessments to include suits for other amounts owed to a district and clarifies that all persons who own or acquire an interest in land for which an assessment is due are personally liable for assessments against irrigable land. The bill makes clarifying changes to provisions relating to interest and collection fees.

C.S.H.B. 1214 repeals provisions requiring the engineer of an irrigation district to make a thorough study and investigation of all plans of the district and prohibiting an irrigation district from making a contract for more than \$20,000 unless the district has an engineer who has made a proper study and report on it.

C.S.H.B. 1214 exempts a district whose fiscal year begins on a date other than September 1 from complying with the bill's provisions that apply to the district until the beginning of the district's next fiscal year following the bill's effective date.

C.S.H.B. 1214 repeals Section 58.137, Water Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1214 may differ from the original in minor or nonsubstantive ways, the

following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 51.301(a), Water Code, is amended.

SECTION 2. Section 51.302, Water Code, is amended.

SECTION 3. Section 51.303, Water Code, is amended.

SECTION 4. Section 51.304, Water Code, is amended.

SECTION 5. Section 51.305, Water Code, is amended to read as follows:

Sec. 51.305. DISTRIBUTION OF ASSESSMENT. (a) The board by rule shall allocate a portion [Not less than one third nor more than two thirds] of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery [irrigation] system or through an extension of its water delivery [irrigation] system. This assessment shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) ~~[The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.]~~ The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district.

(c) The remainder of the estimated expenses shall be paid by assessments, charges, fees, rentals, or deposits required of ~~[against]~~ persons in the district who use or who make application to use water and other charges approved by the board. The board shall prorate the remainder ~~[as equitably as possible]~~ among the applicants for irrigation water and may consider:

(1) the acreage each applicant will plant, the crop the applicant [he] will grow, and the amount of water per acre used for irrigation purposes; and

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Section 51.305, Water Code, is amended to read as follows:

Sec. 51.305. DISTRIBUTION OF ASSESSMENT. (a) The board by order shall allocate a portion [Not less than one third nor more than two thirds] of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery [irrigation] system or through an extension of its water delivery [irrigation] system. This assessment shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) ~~[The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.]~~ The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district.

(c) The remainder of the estimated expenses shall be paid by assessments, charges, fees, rentals, or deposits required of ~~[against]~~ persons in the district or under contracts with persons who use or who make application to use water and other charges approved by the board. The board shall prorate the remainder ~~[as equitably as possible]~~ among the applicants for irrigation water and may consider:

(1) the acreage each applicant will plant, the crop the applicant [he] will grow, and the amount of water per acre used for irrigation purposes; and

(2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses [he will use].

No equivalent provision.

SECTION 6. Section 51.306, Water Code, is amended.

SECTION 7. Section 51.307(a), Water Code, is amended.

SECTION 8. Sections 51.308(a), (b), and (c), Water Code, are amended.

SECTION 9. Section 51.309, Water Code, is amended to read as follows:

Sec. 51.309. LIEN AGAINST CROPS. The district shall have a first lien, superior to all other liens, against all crops grown on a [each] tract of land in the district to secure the payment of an [the] assessment imposed against the tract under Section 51.305(a), interest, and collection or attorney's fees.

No equivalent provision.

SECTION 10. Section 51.310, Water Code, is amended.

SECTION 11. Section 51.311, Water Code, is amended to read as follows:

Sec. 51.311. WATER SERVICE DISCONTINUED.

If a landowner fails or refuses to pay a water assessment or a person fails to pay a charge, fee, rental, or deposit imposed under this

(2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses [he will use].

(d) A landowner of irrigable land in the district or a user of water delivered by the district for any purpose other than irrigation who disputes all or a part of a board order that determines the amount of an assessment, charge, fee, rental, or deposit may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or user of water described by this subsection.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Section 51.309, Water Code, is amended to read as follows:

Sec. 51.309. LIEN AGAINST CROPS. (a) The district shall have a first lien, superior to all other liens, against all crops grown on a [each] tract of land in the district to secure the payment of an [the] assessment imposed against the tract under Section 51.305(a), interest, and collection or attorney's fees.

(b) If the crops against which the district has a lien under this section are cultivated on a basis other than annual replanting, the owner of the crops shall record with the county clerk of the county where the land on which the crops are cultivated is located a legally sufficient description of the land, including a metes and bounds description or a plat reference.

SECTION 10. Same as introduced version.

SECTION 11. Section 51.311, Water Code, is amended to read as follows:

Sec. 51.311. WATER SERVICE DISCONTINUED.

(a) If a landowner fails or refuses to pay a water assessment or a person fails to pay a charge, fee, rental, deposit, or **penalty**

subchapter or Chapter 49 when due, the landowner's or person's [his] water supply shall be cut off, and no water may be furnished to the land until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land for which assessments or other amounts owed to the district are due.

No equivalent provision.

SECTION 12. Section 51.312, Water Code, is amended to read as follows:

Sec. 51.312. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent water assessments or other amounts owed to the district under this subchapter [assessment] may be brought either in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments imposed under Section 51.305(a) [~~provided in this subchapter~~].

SECTION 13. Section 51.313(a), Water Code, is amended to read as follows:

(a) All assessments imposed under Section 51.305(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day of the month following the date payment is due are [~~shall become~~] delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

imposed under this chapter or Chapter 49 when due, the landowner's or person's [his] water supply shall be cut off, and no water may be furnished to the land owned by the landowner or rented by the person in the district until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land, including a leasehold interest, for which assessments or other amounts owed to the district are due.

(b) A landowner or person whose water service has been discontinued under Subsection (a) may request that the board reconsider the discontinuance related to a charge, fee, rental, deposit, or penalty, and may not request that the board reconsider a discontinuance related to an assessment. If the board declines to reconsider the discontinuance, the landowner or person may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or person described by this subsection.

SECTION 12. Section 51.312, Water Code, is amended to read as follows:

Sec. 51.312. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent water assessments or other amounts owed to the district under this subchapter [assessment] may be brought either in the county in which the district is located or in the county in which the defendant resides. All persons who own or acquire an interest in land for which an assessment is due [~~landowners~~] are personally liable for assessments imposed under Section 51.305(a) [~~provided in this subchapter~~].

SECTION 13. Section 51.313, Water Code, is amended to read as follows:

Sec. 51.313. INTEREST AND COLLECTION FEES.

(a) All assessments imposed under Section 51.305(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day of the month following the date payment is due are [~~shall become~~] delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

No equivalent provision.

SECTION 14. Section 55.351, Water Code, is amended.

SECTION 15. Section 55.352, Water Code, is amended.

SECTION 16. Section 55.354, Water Code, is amended to read as follows:

Sec. 55.354. DISTRIBUTION OF ASSESSMENT. (a) The board by rule shall allocate a portion [~~Not less than one-third nor more than two-thirds~~] of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery [~~irrigation~~] system or through an extension of its water delivery [~~irrigation~~] system. This assessment [~~The assessments~~] shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district [~~under this subsection~~].

(c) [~~(b)~~] The remainder of the estimated expenses shall be paid by assessments, charges, fees, rentals, and deposits required of [~~against~~] persons in the district who use or who make application to use water and other charges approved by the board. The board shall prorate the remainder [~~as equitably as possible~~] among the applicants for irrigation water and may consider:

(1) the acreage each applicant will plant, the crop the applicant [~~he~~] will grow, and the amount of water per acre used for irrigation purposes; and

(2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses [~~he will use~~].

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment or other amount owed to the district is collected by an attorney before or after suit, an additional amount of 15 percent on the unpaid assessment, penalty, and interest or other amount owed to the district shall be added as collection or attorney's fees.

SECTION 14. Same as introduced version.

SECTION 15. Same as introduced version.

SECTION 16. Section 55.354, Water Code, is amended to read as follows:

Sec. 55.354. DISTRIBUTION OF ASSESSMENT. (a) The board by order shall allocate a portion [~~Not less than one-third nor more than two-thirds~~] of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery [~~irrigation~~] system or through an extension of its water delivery [~~irrigation~~] system. This assessment [~~The assessments~~] shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district [~~under this subsection~~].

(c) [~~(b)~~] The remainder of the estimated expenses shall be paid by assessments, charges, fees, rentals, or deposits required of [~~against~~] persons in the district or under contracts with persons who use or who make application to use water and other charges approved by the board. The board shall prorate the remainder [~~as equitably as possible~~] among the applicants for irrigation water and may consider:

(1) the acreage each applicant will plant, the crop the applicant [~~he~~] will grow, and the amount of water per acre used for irrigation purposes; and

(2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses [~~he will use~~].

(d) All persons using irrigation water to plant the same crop will pay the same price per acre for the water.

No equivalent provision.

SECTION 17. Section 55.355, Water Code, is amended.

SECTION 18. Section 55.356, Water Code, is amended.

SECTION 19. Section 55.357, Water Code, is amended.

SECTION 20. Section 55.358, Water Code, is amended.

SECTION 21. Section 55.359(a), Water Code, is amended to read as follows:

(a) The district shall have a first lien, superior to all other liens, against all crops grown on a [each] tract of land in the district to secure the payment of an assessment imposed against the tract under Section 55.354(a) [the assessments], interest, and collection or attorney's fees.

No equivalent provision.

SECTION 22. Section 55.360, Water Code, is amended.

SECTION 23. Section 55.361, Water Code, is amended to read as follows:
Sec. 55.361. WATER SERVICE

(d) All persons using irrigation water to plant the same crop will pay the same price per acre for the water.

(e) A landowner of irrigable land in the district or a user of water delivered by the district for any purpose other than irrigation who disputes all or a part of a board order that determines the amount of an assessment, charge, fee, rental, or deposit may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or user of water described by this subsection.

SECTION 17. Same as introduced version.

SECTION 18. Same as introduced version.

SECTION 19. Same as introduced version.

SECTION 20. Same as introduced version.

SECTION 21. Section 55.359, Water Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The district shall have a first lien, superior to all other liens, against all crops grown on a [each] tract of land in the district to secure the payment of an assessment imposed against the tract under Section 55.354(a) [the assessments], interest, and collection or attorney's fees.

(c) If the crops against which the district has a lien under this section are cultivated on a basis other than annual replanting, the owner of the crops shall record with the county clerk of the county where the land on which the crops are cultivated is located a legally sufficient description of the land, including a metes and bounds description or a plat reference.

SECTION 22. Same as introduced version.

SECTION 23. Section 55.361, Water Code, is amended to read as follows:
Sec. 55.361. WATER SERVICE

DISCONTINUED.

If a landowner fails or refuses [~~shall fail or refuse~~] to pay any water assessment or a person fails to pay a charge, fee, rental, or deposit imposed under this subchapter or Chapter 49 when due, the landowner's or person's [~~his~~] water supply shall be cut off, and no water shall be furnished to the land until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire any interest in land for which assessments or other amounts owed to the district are due.

No equivalent provision.

SECTION 24. Section 55.362, Water Code, is amended to read as follows:

Sec. 55.362. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent water assessments or other amounts owed to the district under this subchapter may be brought either in the county in which the irrigation district is located or in the county in which the defendant resides. All **landowners** are personally liable for all assessments imposed under Section 55.354(a) [~~provided in this subchapter~~].

SECTION 25. Section 55.363(a), Water Code, is amended to read as follows:

(a) All assessments imposed under Section 55.354(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day

DISCONTINUED.

(a) If a landowner fails or refuses [~~shall fail or refuse~~] to pay any water assessment or a person fails to pay a charge, fee, rental, deposit, or penalty imposed under this chapter or Chapter 49 when due, the landowner's or person's [~~his~~] water supply shall be cut off, and no water shall be furnished to the land **owned by the landowner or rented by the person in the district** until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire any interest in land, **including a leasehold interest**, for which assessments or other amounts owed to the district are due.

(b) A landowner or person whose water service has been discontinued under Subsection (a) may request that the board reconsider the discontinuance related to a charge, fee, rental, deposit, or penalty, and may not request that the board reconsider a discontinuance related to an assessment. If the board declines to reconsider the discontinuance, the landowner or person may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or person described by this subsection.

SECTION 24. Section 55.362, Water Code, is amended to read as follows:

Sec. 55.362. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent water assessments or other amounts owed to the district under this subchapter may be brought either in the county in which the irrigation district is located or in the county in which the defendant resides. All **persons who own or acquire an interest in land for which an assessment is due** [~~landowners~~] are personally liable for all assessments imposed under Section 55.354(a) [~~provided in this subchapter~~].

SECTION 25. Section 55.363, Water Code, is amended to read as follows:

Sec. 55.363. INTEREST AND COLLECTION FEES.

(a) All assessments imposed under Section 55.354(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day

of the month following the date payment is due are ~~[shall become]~~ delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

No equivalent provision.

SECTION 26. Section 58.301(a), Water Code, is amended.

SECTION 27. Section 58.302, Water Code, is amended.

SECTION 28. Section 58.303, Water Code, is amended.

SECTION 29. Section 58.304, Water Code, is amended.

SECTION 30. Section 58.305, Water Code, is amended to read as follows:

Sec. 58.305. DISTRIBUTION OF ASSESSMENT. (a) The board by **rule** shall allocate a portion [Not less than one-third nor more than two-thirds] of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery [~~irrigation~~] system or through an extension of its water delivery [~~irrigation~~] system. This assessment shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) [~~The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.~~] The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district.

(c) The remainder of the estimated expenses shall be paid by charges, fees, rentals, or deposits required of [assessments against]

of the month following the date payment is due are ~~[shall become]~~ delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment or other amount owed to the district is collected by an attorney before or after suit, an additional amount of 15 percent on the unpaid assessment, penalty, and interest or other amount owed to the district shall be added as collection or attorney's fees.

SECTION 26. Same as introduced version.

SECTION 27. Same as introduced version.

SECTION 28. Same as introduced version.

SECTION 29. Same as introduced version.

SECTION 30. Section 58.305, Water Code, is amended to read as follows:

Sec. 58.305. DISTRIBUTION OF ASSESSMENT. (a) The board by **order** shall allocate a portion [Not less than one-third nor more than two-thirds] of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery [~~irrigation~~] system or through an extension of its water delivery [~~irrigation~~] system. This assessment shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) [~~The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.~~] The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district.

(c) The remainder of the estimated expenses shall be paid by charges, fees, rentals, or deposits required of [assessments against]

persons in the district who use or who make application to use water and other charges approved by the board. The board shall prorate the remainder [~~as equitably as possible~~] among the applicants for irrigation water and may consider:

- (1) the acreage each applicant will plant, the crop the applicant [~~he~~] will grow, and the amount of water per acre used for irrigation purposes; and
- (2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses [~~he will use~~].

No equivalent provision.

SECTION 31. Section 58.306, Water Code, is amended.

SECTION 32. Section 58.307(a), Water Code, is amended.

SECTION 33. Sections 58.308(a), (b), and (c), Water Code, are amended.

SECTION 34. Section 58.309, Water Code, is amended to read as follows:
Sec. 58.309. LIEN AGAINST CROPS. The district shall have a first lien, superior to all other liens, against all crops grown on a [~~each~~] tract of land in the district to secure the payment of an [~~the~~] assessment imposed against the tract under Section 58.305(a), interest, and collection or attorney's fees.

No equivalent provision.

persons in the district or under contracts with persons who use or who make application to use water and other charges approved by the board. The board shall prorate the remainder [~~as equitably as possible~~] among the applicants for irrigation water and may consider:

- (1) the acreage each applicant will plant, the crop the applicant [~~he~~] will grow, and the amount of water per acre used for irrigation purposes; and
- (2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses [~~he will use~~].

(d) A landowner of irrigable land in the district or a user of water delivered by the district for any purpose other than irrigation who disputes all or a part of a board order that determines the amount of an assessment, charge, fee, rental, or deposit may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or user of water described by this subsection.

SECTION 31. Same as introduced version.

SECTION 32. Same as introduced version.

SECTION 33. Same as introduced version.

SECTION 34. Section 58.309, Water Code, is amended to read as follows:
Sec. 58.309. LIEN AGAINST CROPS. (a) The district shall have a first lien, superior to all other liens, against all crops grown on a [~~each~~] tract of land in the district to secure the payment of an [~~the~~] assessment imposed against the tract under Section 58.305(a), interest, and collection or attorney's fees.

(b) If the crops against which the district has a lien under this section are cultivated on a basis other than annual replanting, the owner of the crops shall record with the county clerk of the county where the land on which the crops are cultivated is located a legally sufficient description of the land, including a metes and bounds description or a plat reference.

SECTION 35. Section 58.310, Water Code, is amended.

SECTION 36. Section 58.311, Water Code, is amended to read as follows:

Sec. 58.311. WATER SERVICE DISCONTINUED.

If a landowner fails or refuses to pay a water assessment or a person fails to pay a charge, fee, rental, or deposit imposed under this subchapter or Chapter 49 when due, the landowner's or person's [his] water supply shall be cut off, and no water may be furnished to the land until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land for which assessments or other amounts owed to the district are due.

No equivalent provision.

SECTION 37. Section 58.312, Water Code, is amended to read as follows:

Sec. 58.312. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent water assessments or other amounts owed to the district under this subchapter may be brought either in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments imposed under Section 58.305(a) [provided in this subchapter].

SECTION 38. Section 58.313(a), Water Code, is amended to read as follows:

SECTION 35. Same as introduced version.

SECTION 36. Section 58.311, Water Code, is amended to read as follows:

Sec. 58.311. WATER SERVICE DISCONTINUED.

(a) If a landowner fails or refuses to pay a water assessment or a person fails to pay a charge, fee, rental, deposit, or penalty imposed under this chapter or Chapter 49 when due, the landowner's or person's [his] water supply shall be cut off, and no water may be furnished to the land owned by the landowner or rented by the person in the district until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land, including a leasehold interest, for which assessments or other amounts owed to the district are due.

(b) A landowner or person whose water service has been discontinued under Subsection (a) may request that the board reconsider the discontinuance related to a charge, fee, rental, deposit, or penalty, and may not request that the board reconsider a discontinuance related to an assessment. If the board declines to reconsider the discontinuance, the landowner or person may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or person described by this subsection.

SECTION 37. Section 58.312, Water Code, is amended to read as follows:

Sec. 58.312. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent water assessments or other amounts owed to the district under this subchapter may be brought either in the county in which the district is located or in the county in which the defendant resides. All persons who own or acquire an interest in land for which an assessment is due [landowners] are personally liable for assessments imposed under Section 58.305(a) [provided in this subchapter].

SECTION 38. Section 58.313, Water Code, is amended to read as follows:

Sec. 58.313. INTEREST AND

(a) All assessments imposed under Section 58.305(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day of the month following the date payment is due are ~~[shall become]~~ delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

No equivalent provision.

SECTION 39. Section 58.137, Water Code, is repealed.

No equivalent provision.

SECTION 40. This Act takes effect September 1, 2013.

COLLECTION FEES.

(a) All assessments imposed under Section 58.305(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day of the month following the date payment is due are ~~[shall become]~~ delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment or other amount owed to the district is collected by an attorney before or after suit, an additional amount of 15 percent on the unpaid assessment, penalty, and interest or other amount owed to the district shall be added as collection or attorney's fees.

SECTION 39. Same as introduced version.

SECTION 40. A district whose fiscal year begins on a date other than September 1 is not required to comply with the changes in law made by this Act that apply to the district until the beginning of the district's next fiscal year following the effective date of this Act.

SECTION 41. Same as introduced version.