

## BILL ANALYSIS

C.S.H.B. 1324  
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Natural Resources  
Committee Report (Substituted)

### BACKGROUND AND PURPOSE

Interested parties contend that landowners of certain land within the boundaries of certain water districts should be allowed to have their land excluded from a district if the district does not provide the land with water service. The parties further contend that it is unfair that such a landowner is subject to district taxation despite not receiving district services.

C.S.H.B. 1324 seeks to address this issue by establishing provisions relating to the exclusion of land from certain water districts that fail to provide service to the land.

### 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

SECTION 1. Amends Section 49.3076, Water Code, by amending Subsections (a), (b), (c), and (f) and adding Subsection (g-1) to read as follows:

- (a) Requires the board of a district that has a total area of more than 10,000, rather than 5,000 acres, to call a hearing on the exclusion of land from the district on or before the 60th day after receiving a written petition filed with the secretary of the board by a landowner who owns, rather than whose, land more than half the acreage of which has been included in and taxable by the district for more than 20, rather than 28, years if any bonds issued by the district payable in whole or in part from taxes of the district are outstanding. Requires that the petition be signed by, rather than a petition evidencing the consent of, the owners of a majority of the acreage proposed to be excluded, as reflected by the most recent certified tax roll of the district; include a claim that the district does not provide, rather than has not provided, the land with retail utility services; describe the property to be excluded; and provide facts necessary for the board to make the findings required by Subsection (b) of this Section.

Strikes the provision that requires the petition to be filed before August 31, 2007.

- (b) Requires, rather than authorizes, the board of a district to exclude land under this section if the district does not provide, rather than has never provided, retail utility service, rather than services, to the land described by the petition; the district has imposed a tax on more than half of the acreage of the land for at least 20 years, rather than where the district has imposed a tax on the land for more than 28 years or 40 years if the board calls a hearing under referenced provisions; and all taxes the district has levied and assessed against the land and all fees and assessments the district has imposed against the land or the owner that are due and payable on or before the date of the petition are fully paid.
- (c) Requires the board to enter into an order excluding the land from the district and redefining in the order the boundaries of the district to embrace all land not excluded, unless the district presents evidence at the hearing that conclusively demonstrates that the requirements and grounds for exclusion described by Subsection (a), rather than under Subsection (a-1) or Subsection (b), have not been met.

(f) Authorizes the district, after any land is excluded under this section, to issue any unissued additional debt approved by the voters of the district before exclusion of the land under this section without holding a new election. Provides that additional debt issued after land is excluded from the district may not be payable from taxes levied against and does not create a lien against the taxable value of the excluded land.

(g-1) Provides that this section does not apply to a district whose primary activity is the wholesale supply of raw water; and that has fewer than 500 retail customers.

SECTION 2. Amends Section 49.3077, Water Code, by amending this section to read as follows:

Sec. 49.3077. TAX LIABILITY OF EXCLUDED LAND; BONDS OUTSTANDING.

(a) Provides that in this section:

- (1) Defines "adjusted gross value" to mean the gross assessed value of property, as of January 1, including land, improvements, and personal property, as determined by the appraisal district for the tax year in which the determination is made, reduced by any state-mandated exemptions but not reduced for any exemptions from taxation that are within the discretion of the governing body of the district.
- (2) Defines "carry costs" as interest calculated at an annual rate equal to the weighted average interest rate of the district debt that accrues on the excluded land's share of the district debt, with reductions for prior payments, from the later of the exclusion date or the last interest payment date for district debt for which district taxes have been levied and collected to the earlier of the date of the final interest payment on district debt before the next delinquency for the district's tax collection; or the earliest dates on which an aggregate amount of district obligations equal to the district debt may be redeemed at the option of the district, provided the amount is paid in advance of any future district tax levy, using the redemption dates available for the district's outstanding obligations as of the exclusion date.
- (3) Defines "district debt" to mean the principal outstanding from time to time of the tax-supported debt of the district outstanding on the exclusion date, including debt used to refund district debt outstanding on the exclusion date.
- (4) Defines "excluded land" to mean land that is excluded from a district under Section 49.3076.
- (5) Defines "excluded land payment" to mean, with respect to excluded land, the sum of the excluded land's share of district debt plus the carry costs, less any taxes collected by the district under Subsection (b).
- (6) Defines "excluded land's share of district debt" to mean the portion of the district debt that is calculated by multiplying the district debt by a fraction the numerator of which is the adjusted gross value of the excluded land on the exclusion date and the denominator of which is the adjusted gross value of all property in the district on the exclusion date.
- (7) Defines "exclusion date" to mean the date that the owner files the petition requesting that the excluded land be excluded from the district with the district secretary.
- (8) Defines "termination date" to mean the earlier of the date on which the amount of taxes collected from the excluded land equals the excluded land payment and the date on which the excluded land payment is made in full.

(b) Provides that excluded land that has been pledged as security for any outstanding debt of the district remains pledged for the excluded land's share of district debt until the

excluded land payment is paid. Provides that a district is entitled to continue to levy and collect debt service taxes on the excluded land until the termination date at the same rate those taxes are levied on the land remaining in the district. Provides that from the exclusion date to the termination date, the excluded land remains in the district for the limited purpose of assessment and collection of such taxes. Provides that after the termination date, the excluded land is excluded from the district for all purposes, and the district may not levy any further tax on the excluded land.

- (c) Requires the district to apply the taxes collected on the excluded land only to payment of the excluded land payment, which shall be reduced by the amount of taxes collected.
- (d) Provides that a person is entitled to pay to the district the excluded land payment, in whole or in part, at any time on or after the exclusion date by delivering payment to the district tax assessor-collector. Provides that if partial payment is made, the payment is credited first against all carry costs due and owing, and any remainder is credited against the excluded land's share of district debt. Provides that after a partial payment, carry costs must be calculated and assessed and collected only on the remaining excluded land's share of district debt.

Strikes the provision that land excluded from a district under Section 49.3076 that is pledged as security for any outstanding debt of the district remains pledged for its pro rata share of the debt until final payment is made.

Strikes the provision that requires the district to continue to levy and collect taxes on the excluded land at the same rate levied on land remaining in the district until the amount of taxes collected from the excluded land equals the land's pro rata share of the district's debt outstanding at the time the land was excluded from the district.

Strikes the provision that requires the district to apply the taxes collected on the excluded land only to the payment of the excluded land's pro rata share of the debt.

Strikes the provision that the owner of any part of the excluded land may pay in full the owner's share of the pro rata share of the district's debt outstanding at the time the land is excluded.

Makes nonsubstantive changes.

SECTION 3. Amends Sections 49.312(a) and (c), Water Code, to read as follows:

- (a) Provides that except as provided by Section 49.3077, upon issuance of an order excluding property, that property is no longer a part of the district and is not entitled to water service from the district.
- (c) Provides that except as provided by Section 49.3077, once land is excluded, the landowner has no further liability to the district for future taxes, assessments, or other charges of the district.

SECTION 4. Repeals Section 49.3076 (a-1), Water Code.

SECTION 5. Provides that Section 49.3076, Water Code, as amended by this Act, applies only to a petition for exclusion of land that is filed with a district on or after the effective date of this Act. Provides that a petition filed before that date is governed by the law in effect on the date the petition is filed, and the former law continues in effect for that purpose.

SECTION 6. Provides for the effective date of this Act.

### **EFFECTIVE DATE**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house; otherwise, this Act takes effect September 1, 2013.

## COMPARISON OF ORIGINAL TO SUBSTITUTE

While C.S.H.B. 1324 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. Sections 49.3076 (a), (b), (c), and (f), Water Code, are amended to read as follows:

(a) The board of a district that has a total area of more than 10,000 [~~5,000~~] acres shall call a hearing on the exclusion of land from the district on or before the 60th day after receiving a written petition filed with the secretary of the board by a landowner who owns [~~whose~~] land more than half the acreage of which has been included in and taxable by the district for more than 20 [~~28~~] years if any bonds issued by the district payable in whole or in part from taxes of the district are outstanding and the petition:

(1) is [~~includes a~~] signed by [~~petition evidencing the consent of~~] the owners of a majority of the acreage proposed to be excluded, as reflected by the most recent certified tax roll of the district;

(2) includes a claim that the district does [~~has~~] not provide [~~provided~~] the land with retail utility services;

(3) describes the property to be excluded; and

(4) provides facts necessary for the board to make the findings required by Subsection (b) [~~; and~~

~~(5) is filed before August 31, 2007].~~

(b) The board of a district shall [~~may~~] exclude land under this section if [~~only on finding that~~]:

(1) the district does not provide [~~has never provided~~] retail utility service [~~services~~] to the land described by the petition;

(2) the district has imposed a tax on more than half the acreage of the land for at least 20 years [~~more than:~~

~~(A) 28 years if the board calls a hearing under Subsection (a); or~~

~~(B) 40 years if the board calls a hearing under Subsection (a-1)]; and~~

(3) all taxes the district has levied and assessed against the land and all fees and assessments the district has imposed against the land or the owner that are due and payable on or before the date of the petition are fully paid.

(c) Unless the district presents evidence at the hearing that conclusively demonstrates that the requirements and grounds for exclusion described by Subsection (a) [~~or (a-1), as appropriate, and Subsection (b)~~]

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 49.3076, Water Code, is amended by amending Subsections (a), (b), (c), and (f) and adding Subsection (g-1) to read as follows:

(a) Same as introduced version.

(b) Same as introduced version.

(c) Same as introduced version.

have not been met, the board shall enter an order excluding the land from the district and shall redefine in the order the boundaries of the district to embrace all land not excluded.

(f) After any land is excluded under this section, the district may issue any unissued additional debt approved by the voters of the district before exclusion of the land under this section without holding a new election. Additional debt issued after land is excluded from the district may not be payable from taxes levied against and does not create a lien against the taxable value of the excluded land.

No equivalent provision.

SECTION 2. Section 49.3077, Water Code, is amended to read as follows:

Sec. 49.3077. TAX LIABILITY OF EXCLUDED LAND; BONDS OUTSTANDING. (a) In this section:

(1) “Adjusted gross value” means the gross assessed value of property, as of January 1, including land, improvements, and personal property, as determined by the appraisal district for the tax year in which the determination is made, reduced by any state-mandated exemptions but not reduced for any exemptions from taxation that are within the discretion of the governing body of the district.

(2) “Carry costs” means interest at the weighted average interest rate of the district debt that accrues on the excluded land's share of district debt from the exclusion date to the later of:

(A) the date of full payment of the excluded land's share of district debt; and

(B) the earliest date on which the district debt may be redeemed.

(3) “District debt” means the principal outstanding from time to time of the tax-supported debt of the district outstanding on the exclusion date, including debt used to

(f) Same as introduced version.

(g-1) This section does not apply to a district:

(1) whose primary activity is the wholesale supply of raw water; and

(2) that has fewer than 500 retail customers.

SECTION 2. Section 49.3077, Water Code, is amended to read as follows:

Sec. 49.3077. TAX LIABILITY OF EXCLUDED LAND; BONDS OUTSTANDING. (a) In this section:

(1) Same as introduced version.

(2) “Carry costs” means interest calculated at an annual rate equal to the weighted average interest rate of the district debt that accrues on the excluded land's share of the district debt, with reductions for prior payments, from the later of the exclusion date or the last interest payment date for district debt for which district taxes have been levied and collected to the earlier of:

(A) the date of the final interest payment on district debt before the next delinquency for the district's tax collection; or

(B) the earliest dates on which an aggregate amount of district obligations equal to the district debt may be redeemed at the option of the district, provided the amount is paid in advance of any future district tax levy using the redemption dates available for the district's outstanding obligations as of the exclusion date.

(3) Same as introduced version.

refund district debt outstanding on the exclusion date.

(4) "Excluded land" means land that is excluded from a district under Section 49.3076.

(5) "Excluded land payment" means, with respect to excluded land, the sum of the excluded land's share of district debt plus the carry costs, less any taxes collected by the district under Subsection (b).

(6) "Excluded land's share of district debt" means the portion of the district debt that is calculated by multiplying the district debt by a fraction the numerator of which is the adjusted gross value of the excluded land on the exclusion date and the denominator of which is the adjusted gross value of all property in the district on the exclusion date.

(7) "Exclusion date" means the date that the owner files the petition requesting that the excluded land be excluded from the district with the district secretary.

(8) "Termination date" means the earlier of: (A) the date on which the amount of taxes collected from the excluded land equals the excluded land payment; and

(B) the date on which the excluded land payment is made in full.

(b) Excluded land that has been pledged as security for any outstanding debt of the district remains pledged for the excluded land's share of district debt until the excluded land payment is paid. A district is entitled to continue to levy and collect debt service taxes on the excluded land until the termination date at the same rate those taxes are levied on the land remaining in the district. From the exclusion date to the termination date, the excluded land remains in the district for the limited purpose of assessment and collection of such taxes. After the termination date, the excluded land is excluded from the district for all purposes, and the district may not levy any further tax on the excluded land.

(c) The district shall apply the taxes collected on the excluded land only to payment of the excluded land payment, which shall be reduced by the amount of taxes collected.

(d) A person is entitled to pay to the district the excluded land payment, in whole or in part, at any time on or after the exclusion date by delivering payment to the district tax assessor-collector. If partial payment is made, the payment is credited first against all carry costs due and owing, and any remainder is credited against the excluded land's share of district debt. After a partial payment, carry costs must be calculated and assessed and collected only on the remaining excluded land's share of district

(4) Same as introduced version.

(5) Same as introduced version.

(6) Same as introduced version.

(7) Same as introduced version.

(8) Same as introduced version.

(b) Same as introduced version.

(c) Same as introduced version.

(d) Same as introduced version.

~~debt. [Land excluded from a district under Section 49.3076 that is pledged as security for any outstanding debt of the district remains pledged for its pro rata share of the debt until final payment is made. The district shall continue to levy and collect taxes on the excluded land at the same rate levied on land remaining in the district until the amount of taxes collected from the excluded land equals the land's pro rata share of the district's debt outstanding at the time the land was excluded from the district. (b) The district shall apply the taxes collected on the excluded land only to the payment of the excluded land's pro rata share of the debt. (c) The owner of any part of the excluded land may pay in full the owner's share of the pro rata share of the district's debt outstanding at the time the land is excluded.]~~

SECTION 3. Sections 49.312(a) and (c), Water Code, are amended.

SECTION 3. Same as introduced version.

SECTION 4. Section 49.3076(a-1), Water Code, is repealed.

SECTION 4. Same as introduced version.

SECTION 5. Section 49.3076, Water Code, as amended by this Act, applies only to a petition for exclusion of land that is filed with a district on or after the effective date of this Act. A petition filed before the effective date of this Act is governed by the law in effect on the date the petition is filed, and that law continues in effect for that purpose.

SECTION 5. Same as introduced version.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 6. Same as introduced version.