

By: J. Davis of Harris, et al.

H.B. No. 1324

A BILL TO BE ENTITLED

AN ACT

1
2 relating to exclusion of land from certain water districts that
3 fail to provide service to the land; clarifying and limiting the
4 authority of those districts with outstanding bonds payable from ad
5 valorem taxes to impose taxes on excluded land.

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

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

10 (a) The board of a district that has a total area of more
11 than 10,000 [~~5,000~~] acres shall call a hearing on the exclusion of
12 land from the district on or before the 60th day after receiving a
13 written petition filed with the secretary of the board by a
14 landowner who owns [~~whose~~] land more than half the acreage of which
15 has been included in and taxable by the district for more than 20
16 [~~28~~] years if any bonds issued by the district payable in whole or
17 in part from taxes of the district are outstanding and the petition:

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

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

24 (3) describes the property to be excluded; and

1 (4) provides facts necessary for the board to make the
2 findings required by Subsection (b) [~~and~~
3 ~~[(5) is filed before August 31, 2007]~~].

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

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

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

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

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

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

19 (c) Unless the district presents evidence at the hearing
20 that conclusively demonstrates that the requirements and grounds
21 for exclusion described by Subsection (a) [~~or (a-1), as~~
22 ~~appropriate, and Subsection (b)] have not been met, the board shall
23 enter an order excluding the land from the district and shall
24 redefine in the order the boundaries of the district to embrace all
25 land not excluded.~~

26 (f) After any land is excluded under this section, the
27 district may issue any unissued additional debt approved by the

1 voters of the district before exclusion of the land under this
2 section without holding a new election. Additional debt issued
3 after land is excluded from the district may not be payable from
4 taxes levied against and does not create a lien against the taxable
5 value of the excluded land.

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

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

9 (2) that has fewer than 500 retail customers.

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

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

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

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

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

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

10 (3) "District debt" means the principal outstanding
11 from time to time of the tax-supported debt of the district
12 outstanding on the exclusion date, including debt used to refund
13 district debt outstanding on the exclusion date.

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

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

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

26 (7) "Exclusion date" means the date that the owner
27 files the petition requesting that the excluded land be excluded

1 from the district with the district secretary.

2 (8) "Termination date" means the earlier of:

3 (A) the date on which the amount of taxes
4 collected from the excluded land equals the excluded land payment;
5 and

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

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

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

23 (d) A person is entitled to pay to the district the excluded
24 land payment, in whole or in part, at any time on or after the
25 exclusion date by delivering payment to the district tax
26 assessor-collector. If partial payment is made, the payment is
27 credited first against all carry costs due and owing, and any

1 remainder is credited against the excluded land's share of district
2 debt. After a partial payment, carry costs must be calculated and
3 assessed and collected only on the remaining excluded land's share
4 of district debt. [~~Land excluded from a district under Section~~
5 ~~49.3076 that is pledged as security for any outstanding debt of the~~
6 ~~district remains pledged for its pro rata share of the debt until~~
7 ~~final payment is made. The district shall continue to levy and~~
8 ~~collect taxes on the excluded land at the same rate levied on land~~
9 ~~remaining in the district until the amount of taxes collected from~~
10 ~~the excluded land equals the land's pro rata share of the district's~~
11 ~~debt outstanding at the time the land was excluded from the~~
12 ~~district.~~

13 [~~(b) The district shall apply the taxes collected on the~~
14 ~~excluded land only to the payment of the excluded land's pro rata~~
15 ~~share of the debt.~~

16 [~~(c) The owner of any part of the excluded land may pay in~~
17 ~~full the owner's share of the pro rata share of the district's debt~~
18 ~~outstanding at the time the land is excluded.]~~

19 SECTION 3. Sections 49.312(a) and (c), Water Code, are
20 amended to read as follows:

21 (a) Except as provided by Section 49.3077, upon [~~Upon~~]
22 issuance of an order excluding property, that property is no longer
23 a part of the district and is not entitled to water service from the
24 district.

25 (c) Except as provided by Section 49.3077, once land is
26 [~~Once~~] excluded, the landowner has no further liability to the
27 district for future taxes, assessments, or other charges of the

1 district.

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

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

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