

AN ACT

relating to exclusion of land from certain water districts that fail to provide service to the land; clarifying and limiting the authority of those districts with outstanding bonds payable from ad valorem taxes to impose taxes on excluded land; providing for a financial review.

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

SECTION 1. Section 49.3076, Water Code, is amended by amending Subsections (a), (b), (c), (d), and (f) and adding Subsections (c-1) and (g-1) 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 one or more owners of [~~a landowner whose~~] land more than half the acreage of which has been for more than 20 years included in and taxable by the district [~~for more than 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

1 provide [~~provided~~] the land with retail utility services;

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

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

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

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

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

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

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

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

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

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

1        (c-1) If on or before the date of the exclusion hearing  
2 required by Subsection (a) the district and the owner or owners  
3 enter into an agreement for utility service to the land proposed to  
4 be excluded, the district is not required to enter an order  
5 excluding the land from the district. An owner of all or part of the  
6 land is not required to enter into a utility agreement that as of  
7 the date of the petition:

8            (1) is not comparable economically or in the level of  
9 service provided to the land to the owner's current source of  
10 utility service, as may be determined by the owner; or

11            (2) does not include all utility services required to  
12 serve the land.

13        (d) A copy of an order excluding land and redefining the  
14 boundaries of the district shall be filed in the deed records of  
15 each county in which the district is located and with the  
16 commission.

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

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

25            (1) whose primary activity is the wholesale supply of  
26 raw water and that has fewer than 500 retail customers; or

27            (2) whose jurisdiction covers four counties and that

1 was created under Section 59, Article XVI, Texas Constitution.

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

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

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

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

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

23 (B) the earliest dates on which an aggregate  
24 amount of district obligations equal to the district debt may be  
25 paid at maturity or redeemed at the option of the district, provided  
26 the amount is paid in advance of any future district tax levy, using  
27 the redemption dates available for the district's outstanding

1 obligations as of the exclusion date.

2 (3) "District debt" means the principal outstanding  
3 from time to time of the tax-supported debt of the district  
4 outstanding on the exclusion date, including debt used to refund  
5 district debt outstanding on the exclusion date.

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

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

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

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

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

22 (A) the date on which the amount of taxes  
23 collected from the excluded land equals the excluded land payment;

24 or

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

27 (b) Excluded land that has been pledged as security for any

1 outstanding debt of the district remains pledged for the excluded  
2 land's share of district debt until the excluded land payment is  
3 paid. A district is entitled to continue to levy and collect debt  
4 service taxes on the excluded land until the termination date at the  
5 same rate those taxes are levied on the land remaining in the  
6 district. From the exclusion date to the termination date, the  
7 excluded land remains in the district for the limited purpose of  
8 assessment and collection of such taxes. After the termination  
9 date, the excluded land is excluded from the district for all  
10 purposes, and the district may not levy any further tax on the  
11 excluded land.

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

15 (d) A person is entitled to pay to the district the excluded  
16 land payment, in whole or in part, at any time on or after the  
17 exclusion date by delivering payment to the district tax  
18 assessor-collector. If partial payment is made, the payment is  
19 credited first against all carry costs due and owing, and any  
20 remainder is credited against the excluded land's share of district  
21 debt. After a partial payment, carry costs must be calculated and  
22 assessed and collected only on the remaining excluded land's share  
23 of district debt. [~~Land excluded from a district under Section~~  
24 ~~49.3076 that is pledged as security for any outstanding debt of the~~  
25 ~~district remains pledged for its pro rata share of the debt until~~  
26 ~~final payment is made. The district shall continue to levy and~~  
27 ~~collect taxes on the excluded land at the same rate levied on land~~

1 ~~remaining in the district until the amount of taxes collected from~~  
2 ~~the excluded land equals the land's pro rata share of the district's~~  
3 ~~debt outstanding at the time the land was excluded from the~~  
4 ~~district.~~

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

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

11 SECTION 3. Subchapter J, Chapter 49, Water Code, is amended  
12 by adding Section 49.3078 to read as follows:

13 Sec. 49.3078. PETITION FOR EXCLUSION: ADDITIONAL DUTIES. A  
14 landowner who signs a petition for the exclusion of land that is  
15 filed with a district under Section 49.3076 must submit a copy of  
16 the petition to the commission. On receipt of a copy of a petition,  
17 the executive director shall review the most recent financial  
18 information for the applicable district, including current debt  
19 requirements, debt service cash flow, and proposed debt  
20 obligations, to confirm that an exclusion of land conducted in  
21 accordance with Sections 49.3076 and 49.3077 does not adversely  
22 affect the interests of district bondholders. The executive  
23 director shall notify the landowner and the district when the  
24 review is complete.

25 SECTION 4. Sections 49.312(a) and (c), Water Code, are  
26 amended to read as follows:

27 (a) Except as provided by Section 49.3077, on [Upon]

1 issuance of an order excluding property, that property is no longer  
2 a part of the district and is not entitled to water service from the  
3 district.

4 (c) Except as provided by Section 49.3077, once land is  
5 ~~Once~~ excluded, the landowner has no further liability to the  
6 district for future taxes, assessments, or other charges of the  
7 district.

8 SECTION 5. Section 49.3076(a-1), Water Code, is repealed.

9 SECTION 6. Section 49.3076, Water Code, as amended by this  
10 Act, applies only to a petition for exclusion of land that is filed  
11 with a district on or after the effective date of this Act. A  
12 petition filed before the effective date of this Act is governed by  
13 the law in effect on the date the petition is filed, and that law  
14 continues in effect for that purpose.

15 SECTION 7. This Act takes effect September 1, 2013.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 1324 was passed by the House on May 3, 2013, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1324 on May 24, 2013, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1324 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor