

By: J. Davis of Harris

H.B. No. 1324

A BILL TO BE ENTITLED

1 AN ACT
2 relating to exclusion of land from certain water districts that
3 fail to provide service to the land.

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

5 SECTION 1. Sections 49.3076(a), (b), (c), and (f), Water
6 Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (f) After any land is excluded under this section, the
24 district may issue any unissued additional debt approved by the
25 voters of the district before exclusion of the land under this
26 section without holding a new election. Additional debt issued
27 after land is excluded from the district may not be payable from

1 taxes levied against and does not create a lien against the taxable
2 value of the excluded land.

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

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

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

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

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

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

22 (3) "District debt" means the principal outstanding
23 from time to time of the tax-supported debt of the district
24 outstanding on the exclusion date, including debt used to refund
25 district debt outstanding on the exclusion date.

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

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

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

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

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

15 (A) the date on which the amount of taxes
16 collected from the excluded land equals the excluded land payment;
17 and

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

20 (b) Excluded land that has been pledged as security for any
21 outstanding debt of the district remains pledged for the excluded
22 land's share of district debt until the excluded land payment is
23 paid. A district is entitled to continue to levy and collect debt
24 service taxes on the excluded land until the termination date at the
25 same rate those taxes are levied on the land remaining in the
26 district. From the exclusion date to the termination date, the
27 excluded land remains in the district for the limited purpose of

1 assessment and collection of such taxes. After the termination
2 date, the excluded land is excluded from the district for all
3 purposes, and the district may not levy any further tax on the
4 excluded land.

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

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

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

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

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

6 (a) Except as provided by Section 49.3077, upon ~~Upon~~
7 issuance of an order excluding property, that property is no longer
8 a part of the district and is not entitled to water service from the
9 district.

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

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

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

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