

1-1 By: J. Davis of Harris, et al. H.B. No. 1324  
 1-2 (Senate Sponsor - Taylor)  
 1-3 (In the Senate - Received from the House May 6, 2013;  
 1-4 May 7, 2013, read first time and referred to Committee on Natural  
 1-5 Resources; May 17, 2013, reported adversely, with favorable  
 1-6 Committee Substitute by the following vote: Yeas 11, Nays 0;  
 1-7 May 17, 2013, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			
1-20	X			

1-21 COMMITTEE SUBSTITUTE FOR H.B. No. 1324 By: Estes

1-22 A BILL TO BE ENTITLED  
 1-23 AN ACT

1-24 relating to exclusion of land from certain water districts that  
 1-25 fail to provide service to the land; clarifying and limiting the  
 1-26 authority of those districts with outstanding bonds payable from ad  
 1-27 valorem taxes to impose taxes on excluded land; providing for a  
 1-28 financial review.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 49.3076, Water Code, is amended by  
 1-31 amending Subsections (a), (b), (c), (d), and (f) and adding  
 1-32 Subsections (c-1) and (g-1) to read as follows:

1-33 (a) The board of a district that has a total area of more  
 1-34 than 10,000 [~~5,000~~] acres shall call a hearing on the exclusion of  
 1-35 land from the district on or before the 60th day after receiving a  
 1-36 written petition filed with the secretary of the board by one or  
 1-37 more owners of [a landowner whose] land more than half the acreage  
 1-38 of which has been for more than 20 years included in and taxable by  
 1-39 the district [for more than 28 years] if any bonds issued by the  
 1-40 district payable in whole or in part from taxes of the district are  
 1-41 outstanding and the petition:

1-42 (1) is [includes a] signed by [petition evidencing the  
 1-43 consent of] the owners of a majority of the acreage proposed to be  
 1-44 excluded, as reflected by the most recent certified tax roll of the  
 1-45 district;

1-46 (2) includes a claim that the district does [has] not  
 1-47 provide [provided] the land with retail utility services;

1-48 (3) describes the property to be excluded; and

1-49 (4) provides facts necessary for the board to make the  
 1-50 findings required by Subsection (b) [ , and  
 1-51 [ (5) is filed before August 31, 2007].

1-52 (b) The board of a district shall [may] exclude land under  
 1-53 this section if [only on finding that]:

1-54 (1) the district does not provide [has never provided]  
 1-55 retail utility service [services] to the land described by the  
 1-56 petition;

1-57 (2) the district has imposed a tax on more than half  
 1-58 the acreage of the land for at least 20 years [more than:

1-59 [ (A) 28 years if the board calls a hearing under  
 1-60 Subsection (a); or

2-1 ~~[(B) 40 years if the board calls a hearing under~~  
2-2 ~~Subsection (a-1)]~~; and

2-3 (3) all taxes the district has levied and assessed  
2-4 against the land and all fees and assessments the district has  
2-5 imposed against the land or the owner that are due and payable on or  
2-6 before the date of the petition are fully paid.

2-7 (c) Subject to Subsection (c-1), unless [Unless] the  
2-8 district presents evidence at the hearing that conclusively  
2-9 demonstrates that the requirements and grounds for exclusion  
2-10 described by Subsection (a) [or (a-1), as appropriate, and  
2-11 Subsection (b)] have not been met, the board shall enter an order  
2-12 excluding the land from the district and shall redefine in the order  
2-13 the boundaries of the district to embrace all land not excluded.

2-14 (c-1) If on or before the date of the exclusion hearing  
2-15 required by Subsection (a) the district and the owner or owners  
2-16 enter into an agreement for utility service to the land proposed to  
2-17 be excluded, the district is not required to enter an order  
2-18 excluding the land from the district. An owner of all or part of the  
2-19 land is not required to enter into a utility agreement that as of  
2-20 the date of the petition:

2-21 (1) is not comparable economically or in the level of  
2-22 service provided to the land to the owner's current source of  
2-23 utility service, as may be determined by the owner; or

2-24 (2) does not include all utility services required to  
2-25 serve the land.

2-26 (d) A copy of an order excluding land and redefining the  
2-27 boundaries of the district shall be filed in the deed records of  
2-28 each county in which the district is located and with the  
2-29 commission.

2-30 (f) After any land is excluded under this section, the  
2-31 district may issue any unissued additional debt approved by the  
2-32 voters of the district before exclusion of the land under this  
2-33 section without holding a new election. Additional debt issued  
2-34 after land is excluded from the district may not be payable from  
2-35 taxes levied against and does not create a lien against the taxable  
2-36 value of the excluded land.

2-37 (g-1) This section does not apply to a district:

2-38 (1) whose primary activity is the wholesale supply of  
2-39 raw water and that has fewer than 500 retail customers; or

2-40 (2) whose jurisdiction covers four counties and that  
2-41 was created under Section 59, Article XVI, Texas Constitution.

2-42 SECTION 2. Section 49.3077, Water Code, is amended to read  
2-43 as follows:

2-44 Sec. 49.3077. TAX LIABILITY OF EXCLUDED LAND; BONDS  
2-45 OUTSTANDING. (a) In this section:

2-46 (1) "Adjusted gross value" means the gross assessed  
2-47 value of property, as of January 1, including land, improvements,  
2-48 and personal property, as determined by the appraisal district for  
2-49 the tax year in which the determination is made, reduced by any  
2-50 state-mandated exemptions but not reduced for any exemptions from  
2-51 taxation that are within the discretion of the governing body of the  
2-52 district.

2-53 (2) "Carry costs" means interest calculated at an  
2-54 annual rate equal to the weighted average interest rate of the  
2-55 district debt that accrues on the excluded land's share of the  
2-56 district debt, with reductions for prior payments, from the later  
2-57 of the exclusion date or the last interest payment date for district  
2-58 debt for which district taxes have been levied and collected to the  
2-59 earlier of:

2-60 (A) the date of the final interest payment on  
2-61 district debt before the next delinquency for the district's tax  
2-62 collection; or

2-63 (B) the earliest dates on which an aggregate  
2-64 amount of district obligations equal to the district debt may be  
2-65 paid at maturity or redeemed at the option of the district, provided  
2-66 the amount is paid in advance of any future district tax levy, using  
2-67 the redemption dates available for the district's outstanding  
2-68 obligations as of the exclusion date.

2-69 (3) "District debt" means the principal outstanding

3-1 from time to time of the tax-supported debt of the district  
 3-2 outstanding on the exclusion date, including debt used to refund  
 3-3 district debt outstanding on the exclusion date.

3-4 (4) "Excluded land" means land that is excluded from a  
 3-5 district under Section 49.3076.

3-6 (5) "Excluded land payment" means, with respect to  
 3-7 excluded land, the sum of the excluded land's share of district debt  
 3-8 plus the carry costs, less any taxes collected by the district under  
 3-9 Subsection (b).

3-10 (6) "Excluded land's share of district debt" means the  
 3-11 portion of the district debt that is calculated by multiplying the  
 3-12 district debt by a fraction the numerator of which is the adjusted  
 3-13 gross value of the excluded land on the exclusion date and the  
 3-14 denominator of which is the adjusted gross value of all property in  
 3-15 the district on the exclusion date.

3-16 (7) "Exclusion date" means the date that the owner  
 3-17 files the petition requesting that the excluded land be excluded  
 3-18 from the district with the district secretary.

3-19 (8) "Termination date" means the earlier of:

3-20 (A) the date on which the amount of taxes  
 3-21 collected from the excluded land equals the excluded land payment;  
 3-22 or

3-23 (B) the date on which the excluded land payment  
 3-24 is made in full.

3-25 (b) Excluded land that has been pledged as security for any  
 3-26 outstanding debt of the district remains pledged for the excluded  
 3-27 land's share of district debt until the excluded land payment is  
 3-28 paid. A district is entitled to continue to levy and collect debt  
 3-29 service taxes on the excluded land until the termination date at the  
 3-30 same rate those taxes are levied on the land remaining in the  
 3-31 district. From the exclusion date to the termination date, the  
 3-32 excluded land remains in the district for the limited purpose of  
 3-33 assessment and collection of such taxes. After the termination  
 3-34 date, the excluded land is excluded from the district for all  
 3-35 purposes, and the district may not levy any further tax on the  
 3-36 excluded land.

3-37 (c) The district shall apply the taxes collected on the  
 3-38 excluded land only to payment of the excluded land payment, which  
 3-39 shall be reduced by the amount of taxes collected.

3-40 (d) A person is entitled to pay to the district the excluded  
 3-41 land payment, in whole or in part, at any time on or after the  
 3-42 exclusion date by delivering payment to the district tax  
 3-43 assessor-collector. If partial payment is made, the payment is  
 3-44 credited first against all carry costs due and owing, and any  
 3-45 remainder is credited against the excluded land's share of district  
 3-46 debt. After a partial payment, carry costs must be calculated and  
 3-47 assessed and collected only on the remaining excluded land's share  
 3-48 of district debt. [Land excluded from a district under Section  
 3-49 49.3076 that is pledged as security for any outstanding debt of the  
 3-50 district remains pledged for its pro rata share of the debt until  
 3-51 final payment is made. The district shall continue to levy and  
 3-52 collect taxes on the excluded land at the same rate levied on land  
 3-53 remaining in the district until the amount of taxes collected from  
 3-54 the excluded land equals the land's pro rata share of the district's  
 3-55 debt outstanding at the time the land was excluded from the  
 3-56 district.

3-57 [(b) The district shall apply the taxes collected on the  
 3-58 excluded land only to the payment of the excluded land's pro rata  
 3-59 share of the debt.

3-60 [(c) The owner of any part of the excluded land may pay in  
 3-61 full the owner's share of the pro rata share of the district's debt  
 3-62 outstanding at the time the land is excluded.]

3-63 SECTION 3. Subchapter J, Chapter 49, Water Code, is amended  
 3-64 by adding Section 49.3078 to read as follows:

3-65 Sec. 49.3078. PETITION FOR EXCLUSION: ADDITIONAL DUTIES. A  
 3-66 landowner who signs a petition for the exclusion of land that is  
 3-67 filed with a district under Section 49.3076 must submit a copy of  
 3-68 the petition to the commission. On receipt of a copy of a petition,  
 3-69 the executive director shall review the most recent financial

4-1 information for the applicable district, including current debt  
4-2 requirements, debt service cash flow, and proposed debt  
4-3 obligations, to confirm that an exclusion of land conducted in  
4-4 accordance with Sections 49.3076 and 49.3077 does not adversely  
4-5 affect the interests of district bondholders. The executive  
4-6 director shall notify the landowner and the district when the  
4-7 review is complete.

4-8 SECTION 4. Sections 49.312(a) and (c), Water Code, are  
4-9 amended to read as follows:

4-10 (a) Except as provided by Section 49.3077, on [Upon]  
4-11 issuance of an order excluding property, that property is no longer  
4-12 a part of the district and is not entitled to water service from the  
4-13 district.

4-14 (c) Except as provided by Section 49.3077, once land is  
4-15 [Once] excluded, the landowner has no further liability to the  
4-16 district for future taxes, assessments, or other charges of the  
4-17 district.

4-18 SECTION 5. Section 49.3076(a-1), Water Code, is repealed.

4-19 SECTION 6. Section 49.3076, Water Code, as amended by this  
4-20 Act, applies only to a petition for exclusion of land that is filed  
4-21 with a district on or after the effective date of this Act. A  
4-22 petition filed before the effective date of this Act is governed by  
4-23 the law in effect on the date the petition is filed, and that law  
4-24 continues in effect for that purpose.

4-25 SECTION 7. This Act takes effect September 1, 2013.

4-26

\* \* \* \* \*