

By: Workman

H.B. No. 2851

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Onion Creek Watershed Hays and Travis Counties Flood Control District No. 1; granting a limited power of eminent domain; providing authority to impose assessments and fees.

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

SECTION 1. Subtitle E, Title 6, Special District Local Laws Code, is amended by adding Chapter 7812 to read as follows:

CHAPTER 7812. ONION CREEK WATERSHED HAYS AND TRAVIS COUNTIES FLOOD CONTROL DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7812.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a member of the board.

(3) "District" means the Onion Creek Watershed Hays and Travis Counties Flood Control District No. 1.

Sec. 7812.002. NATURE OF DISTRICT. (a) The district is a conservation and reclamation district as provided by this chapter.

(b) The creation of the district is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 7812.003. DISTRICT TERRITORY. The district initially is composed of the territory described as the Onion Creek Watershed using the National Hydrography Dataset and the Watershed Boundary Dataset and the remainder of any property any part of which falls

1 inside the district on the date this chapter takes effect.

2 Sec. 7812.004. ANNEXATION OR EXCLUSION OF LAND. (a) The  
3 district may annex land to or may exclude land from the district in  
4 accordance with Subchapter J, Chapter 49, or Subchapter H, Chapter  
5 54, Water Code.

6 (b) The district is not required to hold an exclusion  
7 hearing.

8 Sec. 7812.005. PROVISIONS NOT APPLICABLE. The following  
9 provisions of Chapter 49, Water Code, do not apply to the district:

- 10 (1) Section 49.104;
- 11 (2) Section 49.1045;
- 12 (3) Section 49.152;
- 13 (4) Section 49.154;
- 14 (5) Section 49.155;
- 15 (6) Section 49.219;
- 16 (7) Section 49.222;
- 17 (8) Section 49.236;
- 18 (9) Section 49.2361;
- 19 (10) Subchapter F;
- 20 (11) Subchapter L; and
- 21 (12) Subchapter N.

22 SUBCHAPTER B. BOARD OF DIRECTORS

23 Sec. 7812.051. COMPOSITION OF BOARD. The district is  
24 governed by a board of seven elected directors who serve staggered  
25 terms.

26 Sec. 7812.052. OFFICERS. (a) The board shall elect from  
27 among its members a president, a vice president, and a

1 secretary-treasurer at the first board meeting after each  
2 directors' election.

3 (b) The secretary-treasurer:

4 (1) is the custodian of district records; and

5 (2) shall attest to all legal documents executed by  
6 the district.

7 Sec. 7812.053. DIRECTOR'S BOND; SECRETARY-TREASURER'S  
8 BOND. (a) Each director shall give bond in the amount of \$1,000 for  
9 the faithful performance of the director's duties.

10 (b) The secretary-treasurer of the district shall give bond  
11 in the amount of \$2,500 for the faithful performance of the  
12 secretary-treasurer's duties.

13 Sec. 7812.054. OFFICIAL ACTIONS; QUORUM. (a) The board  
14 shall perform official actions by resolution.

15 (b) A majority of the board constitutes a quorum for the  
16 transaction of any business of the district.

17 (c) A majority vote of a quorum is sufficient in any  
18 official action, including final passage and enactment of a  
19 resolution.

20 Sec. 7812.055. BOARD MEETINGS. (a) The board shall hold  
21 regular meetings at least once every three months. The dates of  
22 regular meetings must be established in the district's bylaws or by  
23 resolution.

24 (b) The president or any three directors may call a special  
25 meeting as necessary to administer district business. At least  
26 five days before the date of a special meeting, the  
27 secretary-treasurer shall mail notice of the meeting to the address

1 each director filed with the secretary-treasurer. A director in  
2 writing may waive notices of special meetings.

3 Sec. 7812.056. BOARD COMPENSATION FOR ATTENDING MEETINGS.

4 (a) A director is entitled to receive a fee of \$20 for attending  
5 each board meeting and may not be paid more than \$40 for meetings  
6 held in one calendar month.

7 (b) In all areas of conflict with Subsection (a) of this  
8 section, Section 49.060, Water Code, takes precedence.

9 (c) A director's compensation may be increased as  
10 authorized by Section 49.060, Water Code, by resolution adopted by  
11 the board in accordance with Subsection (e) of that section.

12 SUBCHAPTER C. POWERS AND DUTIES

13 Sec. 7812.101. FLOOD CONTROL POWERS AND DUTIES. The  
14 district may:

15 (1) exercise a power, right, privilege, or function  
16 conferred by general law on a flood control district created under  
17 Section 59, Article XVI, Texas Constitution, as applicable to Hays  
18 and Travis Counties and essential to the flood control project;

19 (2) devise plans and construct works to lessen and  
20 control floods;

21 (3) reclaim land in the district;

22 (4) prevent the deposit of silt in navigable streams;

23 (5) remove natural or artificial obstructions from  
24 streams and other watercourses;

25 (6) regulate the flow of surface and floodwaters;

26 (7) provide drainage essential to the flood control  
27 project;

1           (8) acquire, by gift, devise, purchase, or  
2 condemnation:

3                   (A) land;

4                   (B) a right or interest in land; or

5                   (C) any other character of property needed to  
6 carry on the work of flood control;

7           (9) sell, trade, or otherwise dispose of land or other  
8 property, or a right in the property, no longer needed for the flood  
9 control project or flood control purposes;

10           (10) use the bed and banks of a bayou, river, or stream  
11 in the district, subject to the requirements of the Texas  
12 Commission on Environmental Quality;

13           (11) authorize its officers, employees, or agents to  
14 enter any land in the district to make or examine a survey in  
15 connection with a flood control plan or project or for any other  
16 authorized purpose;

17           (12) overflow or inundate any public land or public  
18 property, and require the relocation of a road or highway, in the  
19 manner and to the extent permitted to a district organized under  
20 general law under Section 59, Article XVI, Texas Constitution,  
21 subject to the requirements of the state agency with jurisdiction  
22 over the land or property or the Texas Transportation Commission,  
23 as applicable;

24           (13) appoint a flood control manager and any agents or  
25 employees of the counties as necessary for flood control purposes,  
26 including an engineer and counsel, prescribe their duties, and set  
27 the amounts of their bonds and compensation;

1           (14) cooperate or contract with the United States to  
2 receive and use money from a grant, loan, or advancement to exercise  
3 a power or further a purpose under this chapter;

4           (15) contribute to the United States in connection  
5 with any project undertaken by the United States that affects or  
6 relates to flood control in Hays or Travis County;

7           (16) cooperate or contract with an agency or political  
8 subdivision of this state, including a municipality in Hays or  
9 Travis County, in relation to:

10                   (A) a survey;

11                   (B) the acquisition of land or a right-of-way; or

12                   (C) the construction, maintenance, or financing  
13 of all or part of a project in connection with any matter within the  
14 scope of this chapter;

15           (17) contract with an agency or political subdivision  
16 of this state, including a municipality in Hays or Travis County,  
17 for the imposition of taxes on behalf of and for the benefit of the  
18 district;

19           (18) sue and be sued under the laws of this state; and

20           (19) perform any act necessary or proper to carry out  
21 the powers described by this section or Section 7812.102.

22           Sec. 7812.102. CONTRACTS AND WARRANTS. The district may  
23 enter into contracts and issue warrants payable from current funds  
24 under the applicable provisions of Chapter 252, Local Government  
25 Code, that relate to a municipality with a population of less than  
26 5,000, to the extent those provisions are not in conflict with this  
27 chapter.

1       Sec. 7812.103. EASEMENT OVER AND RELOCATION OF ROADS. The  
2 district has a right-of-way and easement over and across a road or  
3 highway of this state or a subdivision of this state for the  
4 construction or maintenance of a district flood control project,  
5 subject to the requirements of the Texas Transportation Commission  
6 if the project requires the relocation or bridging of a state  
7 highway.

8       Sec. 7812.104. MAINTENANCE OF FEDERAL FLOOD CONTROL  
9 PROJECTS. The district is entitled to maintain a flood control  
10 project constructed in Hays or Travis County by the United States if  
11 the project:

12           (1) extends wholly or partly into the district or is  
13 within five miles of the boundaries of the district; and

14           (2) is considered by the board to protect property in  
15 the district.

16       Sec. 7812.105. EMINENT DOMAIN. The district may exercise  
17 the power of eminent domain inside district boundaries to acquire  
18 property or an interest in property of any kind that is necessary or  
19 convenient for the district to exercise a right, power, privilege,  
20 or function conferred on the district by this chapter.

21           SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

22       Sec. 7812.151. GRANTS AND GIFTS. A district may make or  
23 accept from any source grants, gratuities, advances, and loans in  
24 any form approved by the board, including any governmental entity,  
25 any private or public corporation, and any other person and may make  
26 and enter into contracts, agreements, and covenants the board  
27 considers appropriate in connection with acceptance of grants,

1 gratuities, advances, and loans.

2 Sec. 7812.152. DEPOSITORY. The board may select one or more  
3 depositories.

4 Sec. 7812.153. INVESTMENT OF DISTRICT MONEY. District  
5 money may be invested by the board or the board's designee under  
6 Subchapter E, Chapter 49, Water Code.

7 Sec. 7812.154. EXPENDITURES. An expenditure of the  
8 district must be made by check signed by two directors.

9 SECTION 2. (a) As soon as practicable after the effective  
10 date of this Act, the temporary directors of the Onion Creek  
11 Watershed Hays and Travis Counties Flood Control District No. 1  
12 shall be appointed as follows:

13 (1) one director appointed by the county judge of  
14 Travis County;

15 (2) one director appointed by the Travis County  
16 commissioner for the Travis County commissioners precinct in which  
17 the largest portion of the district's population is located;

18 (3) one director appointed by the county judge of Hays  
19 County;

20 (4) one director appointed by the Hays County  
21 commissioner for the Hays County commissioners precinct in which  
22 the largest portion of the district's population is located;

23 (5) one director appointed by the state representative  
24 who represents the house district in which the largest portion of  
25 the district's population is located; and

26 (6) two directors appointed by the state senator who  
27 represents the senate district in which the largest portion of the



1 district's population is located.

2 (b) The temporary directors appointed under Subsection (a)  
3 of this section shall:

4 (1) serve until directors have been elected at an  
5 election called under this section and those directors have  
6 qualified for office; and

7 (2) order an election to be held on the uniform  
8 election date in November 2019 in the Onion Creek Watershed Hays and  
9 Travis Counties Flood Control District No. 1 for the election of  
10 directors for the district.

11 (c) The directors elected at the election ordered under  
12 Subsection (b) of this section shall draw lots to determine which  
13 three directors shall serve two-year terms and which four directors  
14 shall serve four-year terms.

15 (d) This section expires January 1, 2020.

16 SECTION 3. (a) The legal notice of the intention to  
17 introduce this Act, setting forth the general substance of this  
18 Act, has been published as provided by law, and the notice and a  
19 copy of this Act have been furnished to all persons, agencies,  
20 officials, or entities to which they are required to be furnished  
21 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
22 Government Code.

23 (b) The governor, one of the required recipients, has  
24 submitted the notice and Act to the Texas Commission on  
25 Environmental Quality.

26 (c) The Texas Commission on Environmental Quality has filed  
27 its recommendations relating to this Act with the governor, the

1 lieutenant governor, and the speaker of the house of  
2 representatives within the required time.

3 (d) All requirements of the constitution and laws of this  
4 state and the rules and procedures of the legislature with respect  
5 to the notice, introduction, and passage of this Act are fulfilled  
6 and accomplished.

7 SECTION 4. If this Act does not receive a two-thirds vote of  
8 all the members elected to each house, Subchapter C, Chapter 7812,  
9 Special District Local Laws Code, as added by Section 1 of this Act,  
10 is amended by striking Section 7812.104 and substituting Section  
11 7812.104 to read as follows:

12 Sec. 7812.104. NO EMINENT DOMAIN POWER. The district may  
13 not exercise the power of eminent domain.

14 SECTION 5. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2017.