86R11510 SLB-D

By:  Dominguez H.B. No. 4726

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Cameron County Flood Control District; granting a limited power of eminent domain; providing authority to impose assessments, fees, and taxes and to issue bonds.

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 7816 to read as follows:

CHAPTER 7816. CAMERON COUNTY FLOOD CONTROL DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7816.0101.  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 Cameron County Flood Control District.

Sec. 7816.0102.  NATURE OF DISTRICT. The district is a conservation and reclamation district established under Section 59, Article XVI, Texas Constitution.

Sec. 7816.0103.  FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b)  The land and other property included in the district will benefit from the works and projects accomplished by the district and by the powers conferred by Section 59, Article XVI, Texas Constitution.

(c)  The creation and operation of the district is essential to accomplish the purpose of Section 59, Article XVI, Texas Constitution.

Sec. 7816.0104.  DISTRICT TERRITORY. The boundaries of the district are coextensive with the boundaries of Cameron County.

Sec. 7816.0105.  ANNEXATION OF LAND. Before the annexation of land inside the corporate limits of a municipality, the district must obtain the approval of the municipality.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7816.0201.  COMPOSITION OF BOARD; TERMS. (a) The district is governed by a board consisting of five elected directors. One director is elected from each commissioners court precinct and one director is elected at large.

(b)  Directors serve two-year terms.

Sec. 7816.0202.  ELIGIBILITY FOR OFFICE. A director must own land in the district subject to taxation at the time the director qualifies for office.

Sec. 7816.0203.  DIRECTOR'S BOND. (a) A director shall execute a bond in the amount of $5,000 for the faithful performance of the director's duties.

(b)  The bond must be filed in the office of the county clerk of Cameron County.

Sec. 7816.0204.  BOARD VACANCY. (a) If a director dies, resigns, or ceases to possess the qualifications required for office, the board shall declare the person's office vacant.

(b)  The board shall appoint a successor to fill the unexpired term.

Sec. 7816.0205.  BOARD PRESIDENT; ABSENCE OF BOARD PRESIDENT. (a) The board may authorize the board's president to sign all orders or take other action.

(b)  Any order adopted or action taken at a board meeting at which the board's president is absent may be signed by the board's vice president, or the board may authorize the president to sign the order or action at a later time.

Sec. 7816.0206.  SECRETARY'S DUTIES. The board secretary shall keep accurate minutes and shall certify any action taken by the board.

Sec. 7816.0207.  TREASURER. (a) The board may appoint a district treasurer.

(b)  The district treasurer shall execute a bond in an amount determined by the board payable to the district and conditioned on the faithful performance of the treasurer's duties.

Sec. 7816.0208.  COMPENSATION OF DIRECTORS. (a) A director is entitled to receive $25 for each day spent performing district work, not to exceed $200 per month.

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

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

Sec. 7816.0209.  VOTE REQUIRED FOR OFFICIAL BOARD ACTION. An official action of the board is not valid without the affirmative vote of a majority of the directors.

Sec. 7816.0210.  DESIGNATION OF DIRECTOR TO ACT ON DISTRICT'S BEHALF. The board may designate one or more directors to execute on behalf of the district all contracts, including a construction contract, sign checks, or handle any other matter entered into by the board as shown in the district's official minutes.

Sec. 7816.0211.  DISTRICT OFFICE. (a) The board shall establish and maintain a district office inside the district.

(b)  The board may establish a second district office outside the district.

(c)  A district office may be a private residence or office and that residence or office is a public place for matters relating to the district's business.

Sec. 7816.0212.  RECORDS. The board shall keep the district's records open to public inspection at reasonable times at the district's principal office.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7816.0301.  GENERAL POWERS AND DUTIES. (a) The district may exercise the rights, powers, privileges, and functions provided by Section 59, Article XVI, Texas Constitution, Chapters 49 and 57, Water Code, and this chapter.

(b)  The district may construct and maintain levees and other improvements on, along, and contiguous to rivers, creeks, streams, and drainage courses for the purposes of:

(1)  reclaiming land from overflow from that water;

(2)  controlling and distributing the water of rivers and streams by straightening and improving the rivers and streams;

(3)  draining and improving the land; and

(4)  preventing the pollution of the water.

Sec. 7816.0302.  EMINENT DOMAIN. (a) The district may exercise the power of eminent domain in Cameron County to acquire the fee simple title to or an easement or right-of-way to, over, or through any land, water, or land under water inside or outside the district that has a direct effect on the accomplishment of the purposes for which the district is created and is necessary for constructing and maintaining all levees and other improvements for the improvement of rivers, creeks, streams, or drainage courses in the district or bordering the district and to prevent overflows.

(b)  The district may not exercise the power of eminent domain under Subsection (a) to acquire land or other property that is used for cemetery purposes.

(c)  The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code.

(d)  The district may not exercise the power of eminent domain within the corporate limits of a municipality without the prior approval by resolution of the governing body of the municipality.

Sec. 7816.0303.  COST OF RELOCATING OR ALTERING PROPERTY. (a) In this section, "sole expense" means the actual cost of relocating, raising, lowering, rerouting, changing the grade of, or altering the construction of a facility described by Subsection (b) to provide comparable replacement without enhancement of the facility, after deducting the net salvage value of the old facility.

(b)  If the district's exercise of its power of eminent domain makes necessary relocating, raising, lowering, rerouting, changing the grade of, or altering the construction of a highway, railroad, electric transmission or distribution line, telephone or telegraph property or facility, or pipeline, the necessary action shall be accomplished at the sole expense of the district unless the owner of the relocated or altered facility has a legal obligation to pay those expenses.

Sec. 7816.0304.  CONTRACTS FOR FACILITIES AND IMPROVEMENTS; ELECTION NOT REQUIRED. (a) The district may enter into a contract with a person for the maintenance or construction of any facility or improvement authorized by this chapter.

(b)  The district may enter into a contract under Subsection (a) without:

(1)  voting for the issuance of bonds; or

(2)  holding an election to approve the contract.

Sec. 7816.0305.  PROHIBITED FUNCTIONS. The district may not:

(1)  engage in any park, water service, wastewater service, police, or firefighting function; or

(2)  spend any district money or issue bonds for any function described by Subdivision (1).

Sec. 7816.0306.  STANDARDS FOR ROAD, STREET, OR UTILITY CONSTRUCTION. Any road, street, or utility construction by the district within the corporate limits of a municipality must comply with the standards for construction adopted by the municipality.

Sec. 7816.0307.  APPROVAL OF RECLAMATION PLAN, AMENDMENT, OR PROJECT. In addition to any other requirements in this chapter, a reclamation plan adopted by the district, an amendment to a reclamation plan, or a project of the district that is not included in a reclamation plan must be approved by any appropriate municipalities before the plan, amendment, or project takes effect.

SUBCHAPTER D. TAX ABATEMENT IN REINVESTMENT ZONE

Sec. 7816.0401.  DESIGNATION OF REINVESTMENT ZONE. (a) The district by resolution may designate as a reinvestment zone an area or real or personal property in the taxing jurisdiction of the district that the board finds satisfies the requirements of Section 7816.0402. The board must find that the proposed commercial-industrial or residential project or projects meet the criteria prescribed by Section 7816.0402.

(b)  The resolution must describe the boundaries of the zone and the eligibility of the zone for commercial-industrial or residential tax abatement.

(c)  The area of a reinvestment zone designated for commercial-industrial or residential tax abatement may be included in an overlapping or coincidental commercial-industrial or residential zone established under Chapter 312, Tax Code.

(d)  The district may not adopt a resolution designating an area as a reinvestment zone until the district has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the district after the expiration of an agreement entered into under Section 7816.0404 or 7816.0405. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

(1)  published in a newspaper having general circulation in the district; and

(2)  delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.

(e)  A notice made under Subsection (d)(2) is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

Sec. 7816.0402.  CRITERIA FOR REINVESTMENT ZONE. To be designated as a reinvestment zone under this subchapter, an area must be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the district.

Sec. 7816.0403.  EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for commercial-industrial or residential tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect an existing tax abatement agreement governed by this subchapter.

Sec. 7816.0404.  TAX ABATEMENT AGREEMENT. (a)  The district may enter into a tax abatement agreement by agreeing, in writing, with the owner of taxable real property that is located in a reinvestment zone to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 30 years, on the condition that the owner of the property make specific improvements or repairs to the property.

(b)  The real property covered by the agreement may not be located in an improvement project financed by tax increment bonds.

(c)  The agreement is subject to the rights of holders of outstanding bonds of the district.

(d)  The agreement may:

(1)  provide for the exemption of the real property in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed;

(2)  provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the district; and

(3)  cover more than one commercial-industrial or residential project.

Sec. 7816.0405.  TAX ABATEMENT AGREEMENT: CERTIFICATED AIR CARRIER. (a)  The district may enter into a tax abatement agreement by agreeing, in writing, with the owner or lessee of real property that is located in a reinvestment zone to exempt from taxation for a period not to exceed 30 years a portion of the value of the real property or of personal property, or both, located in the zone and owned or leased by a certificated air carrier on the condition that the certificated air carrier:

(1)  make specific real property improvements; or

(2)  lease, for a term of 30 years or more, real property improvements located in the reinvestment zone.

(b)  The agreement may provide for the exemption of the:

(1)  real property in each year covered by the agreement to the extent its value for that year exceeds its value for the year in which the agreement is executed; and

(2)  personal property owned or leased by a certificated air carrier located in the reinvestment zone in each year covered by the agreement other than specific personal property that was located in the reinvestment zone at any time before the period covered by the agreement with the district.

Sec. 7816.0406.  TAX ABATEMENT AGREEMENT REQUIREMENTS. (a) This section applies to an agreement made under Section 7816.0404 or 7816.0405.

(b)  The agreement must:

(1)  list the kind, number, and location of all proposed improvements of the property; and

(2)  provide for:

(A)  the availability of tax abatement for both new facilities and structures and for the expansion or modernization of existing facilities and structures; and

(B)  recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

(c)  A tax abatement agreement is not required to contain terms identical to another tax abatement agreement that covers the same exempted property or a portion of that property.

(d)  Property that is in a reinvestment zone and that is owned or leased by a director is excluded from property tax abatement.

(e)  The agreement may include, at the option of the district, provisions for maps showing existing uses and conditions and proposed improvements and uses of real property in the reinvestment zone.

(f)  On approval by the district, the agreement may be executed in the same manner as other contracts made by the district.

(g)  The agreement applies only to taxes levied by the district and does not affect other taxing units that levy taxes on property in the district.

Sec. 7816.0407.  NOTICE OF TAX ABATEMENT AGREEMENT TO OTHER TAXING UNITS. (a) Not later than the seventh day before the date on which the district enters into an agreement under Section 7816.0404 or 7816.0405, the board or a designated officer or employee of the district shall deliver a written notice that the district intends to enter into the agreement to the Texas Commission on Environmental Quality and to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the agreement is located. The notice must include a copy of the proposed agreement.

(b)  A notice is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

(c)  Failure to deliver the notice does not affect the validity of the agreement.

Sec. 7816.0408.  MODIFICATION OR TERMINATION OF TAX ABATEMENT AGREEMENT. (a) At any time before the expiration of an agreement governed by this subchapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 30 years from the date of the original agreement.

(b)  An agreement governed by this subchapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed.

Sec. 7816.0409.  REGISTRY OF REINVESTMENT ZONES AND TAX ABATEMENT AGREEMENTS; ASSISTANCE TO DISTRICT. (a) The Texas Economic Development and Tourism Office shall maintain a central registry of reinvestment zones governed by this subchapter and of ad valorem tax abatement agreements executed under this subchapter. Before April 1 of the year following the year in which the zone is designated or the agreement is executed, the district shall deliver to the office, the comptroller, and the Texas Commission on Environmental Quality a report that provides:

(1)  for a reinvestment zone, a general description of the zone, including its size, the types of property located in it, and its duration; and

(2)  for a tax abatement agreement, the parties to the agreement, a general description of the property and the improvements or repairs to be made under the agreement, the portion of the property to be exempted, and the duration of the agreement.

(b)  On the request of the board or the board's president, the office may provide assistance to the district relating to the administration of this subchapter, including the designation of reinvestment zones and the adoption of tax abatement agreements.

Sec. 7816.0410.  PROPERTIES THAT MAY BE INCLUDED IN TAX ABATEMENT AGREEMENT. (a) The district may include in a tax abatement agreement:

(1)  facilities and structures; and

(2)  tangible personal property located on property covered by the agreement.

(b)  A tax abatement agreement made under this section may be based on the value of the property on January 1 of the year in which the construction, expansion, or modernization of the property began.

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 7816.0501.  DEPOSITORY. (a) The board shall designate one or more banks to serve as the depository for district money.

(b)  District money shall be deposited as received in a depository bank, other than money transmitted to a bank for payment of bonds issued by the district.

(c)  If district money is deposited in a depository that is not insured by the Federal Deposit Insurance Corporation, the money must be secured in the manner provided by law for the security of county funds.

Sec. 7816.0502.  AUTHORITY TO ISSUE BONDS AND INCUR INDEBTEDNESS. The district may issue bonds and incur other indebtedness in the manner provided by Subchapter E, Chapter 7803.

Sec. 7816.0503.  BOND ANTICIPATION NOTES. (a) In addition to all other methods of acquiring money for district purposes, the district may issue bond anticipation notes for any purpose for which district bonds have been voted or may be issued to refund outstanding bond anticipation notes and the interest on the notes being refunded.

(b)  The notes may bear interest at any rate not to exceed the maximum interest rate applicable to the district's authorized bonds.

(c)  The district shall pay the notes only from the proceeds of the sale of bonds by the district.

Sec. 7816.0504.  AUTHORIZED MAINTENANCE TAXES. The district may impose a maintenance tax that has been authorized at an election held in the district.

SECTION 2.  (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

(c)  The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

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

SECTION 3.  (a) Sections 7816.0302 and 7816.0303, Special District Local Laws Code, as added by Section 1 of this Act, take effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b)  If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7816, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7816.0302 to read as follows:

Sec. 7816.0302.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c)  This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.