

By: Zerwas

H.B. No. 4011

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Jones Creek Flood Control and Improvement District; granting a limited power of eminent domain; providing authority to impose assessments, fees, and taxes.

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 7814 to read as follows:

CHAPTER 7814. JONES CREEK FLOOD CONTROL AND IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7814.0101. 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 Jones Creek Flood Control and Improvement District.

Sec. 7814.0102. 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. 7814.0103. DISTRICT TERRITORY. The district initially is composed of the territory described as the Jones Creek Watershed using the National Hydrography Dataset and the Watershed Boundary Dataset and the remainder of any property any part of which falls inside the district on the date this chapter takes effect.

Sec. 7814.0104. ANNEXATION OR EXCLUSION OF LAND. (a) The

1 district may annex land to or may exclude land from the district in  
2 accordance with Subchapter J, Chapter 49, or Subchapter H, Chapter  
3 54, Water Code.

4 (b) The district is not required to hold an exclusion  
5 hearing.

6 Sec. 7814.0105. PROVISIONS NOT APPLICABLE. The following  
7 provisions of Chapter 49, Water Code, do not apply to the district:

8 (1) Section 49.104;

9 (2) Section 49.1045;

10 (3) Section 49.152;

11 (4) Section 49.154;

12 (5) Section 49.155;

13 (6) Section 49.219;

14 (7) Section 49.222;

15 (8) Section 49.236;

16 (9) Section 49.2361;

17 (10) Subchapter F;

18 (11) Subchapter L; and

19 (12) Subchapter N.

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Sec. 7814.0201. COMPOSITION OF BOARD. The district is  
22 governed by a board of seven elected directors who serve staggered  
23 terms.

24 Sec. 7814.0202. OFFICERS. (a) The board shall elect from  
25 among its members a president, a vice president, and a  
26 secretary-treasurer at the first board meeting after each  
27 directors' election.

1       (b) The secretary-treasurer:

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

3           (2) shall attest to all legal documents executed by  
4 the district.

5       Sec. 7814.0203. DIRECTOR'S BOND; SECRETARY-TREASURER'S  
6 BOND. (a) Each director shall give bond in the amount of \$1,000 for  
7 the faithful performance of the director's duties.

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

11       Sec. 7814.0204. OFFICIAL ACTIONS; QUORUM. (a) The board  
12 shall perform official actions by resolution.

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

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

18       Sec. 7814.0205. BOARD MEETINGS. (a) The board shall hold  
19 regular meetings at least once every three months. The dates of  
20 regular meetings must be established in the district's bylaws or by  
21 resolution.

22       (b) The president or any three directors may call a special  
23 meeting as necessary to administer district business. At least  
24 five days before the date of a special meeting, the  
25 secretary-treasurer shall mail notice of the meeting to the address  
26 each director filed with the secretary-treasurer. A director in  
27 writing may waive notices of special meetings.

1       Sec. 7814.0206. BOARD COMPENSATION FOR ATTENDING MEETINGS.

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

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

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

10                   SUBCHAPTER C. POWERS AND DUTIES

11       Sec. 7814.0301. FLOOD CONTROL POWERS AND DUTIES. The  
12 district may:

13               (1) exercise a power, right, privilege, or function  
14 conferred by general law on a flood control district created under  
15 Section 59, Article XVI, Texas Constitution, as applicable to Fort  
16 Bend County and essential to the flood control project;

17               (2) devise plans and construct works to lessen and  
18 control floods;

19               (3) reclaim land in the district;

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

21               (5) remove natural or artificial obstructions from  
22 streams and other watercourses;

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

24               (7) provide drainage essential to the flood control  
25 project;

26               (8) acquire, by gift, devise, purchase, or  
27 condemnation:

- 1                   (A) land;  
2                   (B) a right or interest in land; or  
3                   (C) any other character of property needed to  
4 carry on the work of flood control;
- 5                   (9) sell, trade, or otherwise dispose of land or other  
6 property, or a right in the property, no longer needed for the flood  
7 control project or flood control purposes;
- 8                   (10) use the bed and banks of a bayou, river, or stream  
9 in the district, subject to the requirements of the Texas  
10 Commission on Environmental Quality;
- 11                   (11) authorize its officers, employees, or agents to  
12 enter any land in the district to make or examine a survey in  
13 connection with a flood control plan or project or for any other  
14 authorized purpose;
- 15                   (12) overflow or inundate any public land or public  
16 property, and require the relocation of a road or highway, in the  
17 manner and to the extent permitted to a district organized under  
18 general law under Section 59, Article XVI, Texas Constitution,  
19 subject to the requirements of the state agency with jurisdiction  
20 over the land or property or the Texas Transportation Commission,  
21 as applicable;
- 22                   (13) appoint a flood control manager and any agents or  
23 employees of the counties as necessary for flood control purposes,  
24 including an engineer and counsel, prescribe their duties, and set  
25 the amounts of their bonds and compensation;
- 26                   (14) cooperate or contract with the United States to  
27 receive and use money from a grant, loan, or advancement to exercise

1 a power or further a purpose under this chapter;

2 (15) contribute to the United States in connection  
3 with any project undertaken by the United States that affects or  
4 relates to flood control in Fort Bend County;

5 (16) cooperate or contract with an agency or political  
6 subdivision of this state, including a municipality in Fort Bend  
7 County, in relation to:

8 (A) a survey;

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

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

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

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

18 (19) perform any act necessary or proper to carry out  
19 the powers described by this section or Section 7814.0302.

20 Sec. 7814.0302. CONTRACTS AND WARRANTS. The district may  
21 enter into contracts and issue warrants payable from current funds  
22 under the applicable provisions of Chapter 252, Local Government  
23 Code, that relate to a municipality with a population of less than  
24 5,000, to the extent those provisions are not in conflict with this  
25 chapter.

26 Sec. 7814.0303. EASEMENT OVER AND RELOCATION OF ROADS. The  
27 district has a right-of-way and easement over and across a road or

1 highway of this state or a subdivision of this state for the  
2 construction or maintenance of a district flood control project,  
3 subject to the requirements of the Texas Transportation Commission  
4 if the project requires the relocation or bridging of a state  
5 highway.

6 Sec. 7814.0304. MAINTENANCE OF FEDERAL FLOOD CONTROL  
7 PROJECTS. The district is entitled to maintain a flood control  
8 project constructed in Fort Bend County by the United States if the  
9 project:

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

12 (2) is considered by the board to protect property in  
13 the district.

14 Sec. 7814.0305. EMINENT DOMAIN. The district may exercise  
15 the power of eminent domain inside district boundaries to acquire  
16 property or an interest in property of any kind that is necessary or  
17 convenient for the district to exercise a right, power, privilege,  
18 or function conferred on the district by this chapter.

19 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

20 Sec. 7814.0401. GRANTS AND GIFTS. A district may make or  
21 accept from any source grants, gratuities, advances, and loans in  
22 any form approved by the board, including any governmental entity,  
23 any private or public corporation, and any other person and may make  
24 and enter into contracts, agreements, and covenants the board  
25 considers appropriate in connection with acceptance of grants,  
26 gratuities, advances, and loans.

27 Sec. 7814.0402. DEPOSITORY. The board may select one or

1 more depositories.

2 Sec. 7814.0403. INVESTMENT OF DISTRICT MONEY. District  
3 money may be invested by the board or the board's designee under  
4 Subchapter E, Chapter 49, Water Code.

5 Sec. 7814.0404. EXPENDITURES. An expenditure of the  
6 district must be made by check signed by two directors.

7 SUBCHAPTER E. BONDS

8 Sec. 7814.0501. AUTHORITY TO ISSUE BONDS. To carry out a  
9 power the district is authorized to perform, the district may issue  
10 bonds payable from and secured by:

11 (1) ad valorem taxes;

12 (2) all or part of the net revenue of the  
13 income-producing properties of the district, as specified by the  
14 board, after deducting reasonable expenses for maintenance,  
15 operation, and administration; or

16 (3) ad valorem taxes and the net revenue described by  
17 Subdivision (2).

18 Sec. 7814.0502. BOND ELECTION REQUIRED. The district may  
19 issue bonds only if the bonds are authorized by a majority of the  
20 district voters voting at an election called by the board.

21 Sec. 7814.0503. NOTICE OF BOND ELECTION. (a) Except as  
22 otherwise provided by this section, notice of a bond election must  
23 be given in the manner required of bond elections in water control  
24 and improvement districts.

25 (b) The notice must be published once a week for two  
26 consecutive weeks in a newspaper of general circulation in the  
27 district. Publication of the first notice must be not later than



1 the 14th day before the date of the election.

2 (c) The notice is not required to state any summary of  
3 engineers or other estimates of cost.

4 Sec. 7814.0504. REFUNDING BONDS. (a) The district may  
5 issue refunding bonds to refund:

6 (1) outstanding bonds issued by the district and  
7 interest on those bonds; or

8 (2) outstanding bonds of the city assumed by the  
9 district.

10 (b) Refunding bonds may:

11 (1) be issued to refund more than one series of  
12 outstanding district bonds, including bonds assumed by the  
13 district;

14 (2) combine the pledges of net revenue, taxes, or  
15 both, that secure the outstanding bonds for the security of the  
16 refunding bonds; and

17 (3) be secured by a pledge of other or additional  
18 revenue.

19 (c) Refunding bonds may be combined and issued jointly with  
20 new money bonds to be issued and sold to carry out a power for which  
21 the district may issue bonds.

22 (d) The comptroller shall register the refunding bonds on  
23 the surrender and cancellation of the bonds to be refunded.

24 (e) Instead of issuing bonds to be registered on the  
25 surrender and cancellation of the bonds to be refunded, the  
26 district, in the resolution authorizing the issuance of the  
27 refunding bonds, may provide for the sale of the refunding bonds and

1 the deposit of the proceeds in a bank at which the bonds to be  
2 refunded are payable. In that case, the refunding bonds may be  
3 issued in an amount sufficient to pay the interest on the bonds to  
4 be refunded to their option date or maturity date, and the  
5 comptroller shall register the refunding bonds without the  
6 surrender and cancellation of the bonds to be refunded.

7 Sec. 7814.0505. BOND APPROVAL. The board is not required  
8 to secure the approval of the Texas Commission on Environmental  
9 Quality for district bonds.

10 SECTION 2. (a) As soon as practicable after the effective  
11 date of this Act, the Commissioners Court of Fort Bend County shall  
12 appoint seven persons as the temporary directors of the Jones Creek  
13 Flood Control and Improvement District.

14 (b) The temporary directors appointed under Subsection (a)  
15 of this section shall:

16 (1) serve until directors have been elected at an  
17 election called under this section and those directors have  
18 qualified for office; and

19 (2) order an election to be held on the next uniform  
20 election date in the Jones Creek Flood Control and Improvement  
21 District for the election of directors for the district.

22 (c) The directors elected at the election ordered under  
23 Subsection (b) of this section shall draw lots to determine which  
24 three directors shall serve two-year terms and which four directors  
25 shall serve four-year terms.

26 (d) This section expires January 1, 2022.

27 SECTION 3. (a) The legal notice of the intention to

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

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

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

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

18 SECTION 4. If this Act does not receive a two-thirds vote of  
19 all the members elected to each house, Subchapter C, Chapter 7814,  
20 Special District Local Laws Code, as added by Section 1 of this Act,  
21 is amended by striking Section 7814.0305 and substituting Section  
22 7814.0305 to read as follows:

23 Sec. 7814.0305. NO EMINENT DOMAIN POWER. The district may  
24 not exercise the power of eminent domain.

25 SECTION 5. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2019.