

By: Dominguez

H.B. No. 4726

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Cameron County Flood Control
3 District; granting a limited power of eminent domain; providing
4 authority to impose assessments, fees, and taxes and to issue
5 bonds.

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

7 SECTION 1. Subtitle E, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 7816 to read as follows:

9 CHAPTER 7816. CAMERON COUNTY FLOOD CONTROL DISTRICT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7816.0101. DEFINITIONS. In this chapter:

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

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

14 (3) "District" means the Cameron County Flood Control
15 District.

16 Sec. 7816.0102. NATURE OF DISTRICT. The district is a
17 conservation and reclamation district established under Section
18 59, Article XVI, Texas Constitution.

19 Sec. 7816.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

20 (a) The district is created to serve a public use and benefit.

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

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

4 Sec. 7816.0104. DISTRICT TERRITORY. The boundaries of the
5 district are coextensive with the boundaries of Cameron County
6 except that the district does not include territory that is in a
7 drainage district or irrigation district on the effective date of
8 the Act enacting this chapter.

9 Sec. 7816.0105. ALTERATION OF DISTRICT TERRITORY. The
10 district may alter the territory of the district as provided by
11 Subchapters J and K, Chapter 56, Water Code.

12 Sec. 7816.0106. ANNEXATION OF LAND. Before the annexation
13 of land inside the corporate limits of a municipality or inside the
14 boundaries of a drainage or irrigation district, the district must
15 obtain the approval of the municipality or drainage or irrigation
16 district.

17 SUBCHAPTER B. BOARD OF DIRECTORS

18 Sec. 7816.0201. COMPOSITION OF BOARD; TERMS. (a) The
19 district is governed by a board consisting of the five county
20 commissioners of Cameron County.

21 (b) The members of the Cameron County commissioners court
22 serve ex-officio and without compensation as directors.

23 (c) The terms of the directors correspond to the terms of
24 the county commissioners.

25 Sec. 7816.0202. DIRECTOR'S BOND. (a) A director shall
26 execute a bond in the amount of \$10,000 for the faithful performance
27 of the director's duties.

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

3 Sec. 7816.0203. BOARD PRESIDENT; ABSENCE OF BOARD
4 PRESIDENT. (a) The board may authorize the board's president to
5 sign all orders or take other action.

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

10 Sec. 7816.0204. SECRETARY'S DUTIES. The board secretary
11 shall keep accurate minutes and shall certify any action taken by
12 the board.

13 Sec. 7816.0205. TREASURER. (a) The board may appoint a
14 district treasurer.

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

18 Sec. 7816.0206. VOTE REQUIRED FOR OFFICIAL BOARD ACTION.
19 An official action of the board is not valid without the affirmative
20 vote of a majority of the directors.

21 Sec. 7816.0207. DESIGNATION OF DIRECTOR TO ACT ON
22 DISTRICT'S BEHALF. The board may designate one or more directors to
23 execute on behalf of the district all contracts, including a
24 construction contract, sign checks, or handle any other matter
25 entered into by the board as shown in the district's official
26 minutes.

27 Sec. 7816.0208. DISTRICT OFFICE. (a) The board shall

1 establish and maintain a district office inside the district.

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

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

7 Sec. 7816.0209. RECORDS. The board shall keep the
8 district's records open to public inspection at reasonable times at
9 the district's principal office.

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 7816.0301. GENERAL POWERS AND DUTIES. (a) The
12 district may exercise the rights, powers, privileges, and functions
13 provided by Section 59, Article XVI, Texas Constitution, Chapters
14 49 and 57, Water Code, and this chapter.

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

- 18 (1) reclaiming land from overflow from that water;
19 (2) controlling and distributing the water of rivers
20 and streams by straightening and improving the rivers and streams;
21 (3) draining and improving the land; and
22 (4) preventing the pollution of the water.

23 Sec. 7816.0302. EMINENT DOMAIN. (a) The district may
24 exercise the power of eminent domain in Cameron County to acquire
25 the fee simple title to or an easement or right-of-way to, over, or
26 through any land, water, or land under water inside or outside the
27 district that has a direct effect on the accomplishment of the

1 purposes for which the district is created and is necessary for
2 constructing and maintaining all levees and other improvements for
3 the improvement of rivers, creeks, streams, or drainage courses in
4 the district or bordering the district and to prevent overflows.

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

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

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

14 Sec. 7816.0303. COST OF RELOCATING OR ALTERING PROPERTY.

15 (a) In this section, "sole expense" means the actual cost of
16 relocating, raising, lowering, rerouting, changing the grade of, or
17 altering the construction of a facility described by Subsection (b)
18 to provide comparable replacement without enhancement of the
19 facility, after deducting the net salvage value of the old
20 facility.

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

1 pay those expenses.

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

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

8 (1) voting for the issuance of bonds; or

9 (2) holding an election to approve the contract.

10 (c) The district may enter into an interlocal agreement with
11 a drainage district, irrigation district, or municipality for
12 maintenance and improvement of district projects, when
13 practicable.

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

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

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

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

24 Sec. 7816.0307. APPROVAL OF RECLAMATION PLAN, AMENDMENT, OR
25 PROJECT. In addition to any other requirements in this chapter, a
26 reclamation plan adopted by the district, an amendment to a
27 reclamation plan, or a project of the district that is not included

1 in a reclamation plan must be approved by any appropriate
2 municipalities before the plan, amendment, or project takes effect.

3 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

4 Sec. 7816.0401. DEPOSITORY. (a) The board shall designate
5 one or more banks to serve as the depository for district money.

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

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

13 Sec. 7816.0402. AUTHORITY TO ISSUE BONDS AND INCUR
14 INDEBTEDNESS. The district may issue bonds and incur other
15 indebtedness in the manner provided by Subchapter E, Chapter 7803.

16 Sec. 7816.0403. BOND ANTICIPATION NOTES. (a) In addition
17 to all other methods of acquiring money for district purposes, the
18 district may issue bond anticipation notes for any purpose for
19 which district bonds have been voted or may be issued to refund
20 outstanding bond anticipation notes and the interest on the notes
21 being refunded.

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

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

27 Sec. 7816.0404. AUTHORIZED MAINTENANCE TAXES. The district

1 may impose a maintenance tax that has been authorized at an election
2 held in the district.

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

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

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

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

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

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

1 amended by adding Section 7816.0302 to read as follows:

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

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

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