

By: Dominguez

H.B. No. 4726

A BILL TO BE ENTITLED

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

9                   SUBCHAPTER B. BOARD OF DIRECTORS

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

14           (b) Directors serve two-year terms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27       Sec. 7816.0210. DESIGNATION OF DIRECTOR TO ACT ON

1 DISTRICT'S BEHALF. The board may designate one or more directors to  
2 execute on behalf of the district all contracts, including a  
3 construction contract, sign checks, or handle any other matter  
4 entered into by the board as shown in the district's official  
5 minutes.

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

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

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

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

16 SUBCHAPTER C. POWERS AND DUTIES

17 Sec. 7816.0301. GENERAL POWERS AND DUTIES. (a) The  
18 district may exercise the rights, powers, privileges, and functions  
19 provided by Section 59, Article XVI, Texas Constitution, Chapters  
20 49 and 57, Water Code, and this chapter.

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

- 24 (1) reclaiming land from overflow from that water;  
25 (2) controlling and distributing the water of rivers  
26 and streams by straightening and improving the rivers and streams;  
27 (3) draining and improving the land; and

1           (4) preventing the pollution of the water.

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

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

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

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

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

21           (a) In this section, "sole expense" means the actual cost of  
22 relocating, raising, lowering, rerouting, changing the grade of, or  
23 altering the construction of a facility described by Subsection (b)  
24 to provide comparable replacement without enhancement of the  
25 facility, after deducting the net salvage value of the old  
26 facility.

27           (b) If the district's exercise of its power of eminent

1 domain makes necessary relocating, raising, lowering, rerouting,  
2 changing the grade of, or altering the construction of a highway,  
3 railroad, electric transmission or distribution line, telephone or  
4 telegraph property or facility, or pipeline, the necessary action  
5 shall be accomplished at the sole expense of the district unless the  
6 owner of the relocated or altered facility has a legal obligation to  
7 pay those expenses.

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

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

- 14 (1) voting for the issuance of bonds; or  
15 (2) holding an election to approve the contract.

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

- 18 (1) engage in any park, water service, wastewater  
19 service, police, or firefighting function; or  
20 (2) spend any district money or issue bonds for any  
21 function described by Subdivision (1).

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

26 Sec. 7816.0307. APPROVAL OF RECLAMATION PLAN, AMENDMENT, OR  
27 PROJECT. In addition to any other requirements in this chapter, a

1 reclamation plan adopted by the district, an amendment to a  
2 reclamation plan, or a project of the district that is not included  
3 in a reclamation plan must be approved by any appropriate  
4 municipalities before the plan, amendment, or project takes effect.

5 SUBCHAPTER D. TAX ABATEMENT IN REINVESTMENT ZONE

6 Sec. 7816.0401. DESIGNATION OF REINVESTMENT ZONE. (a) The  
7 district by resolution may designate as a reinvestment zone an area  
8 or real or personal property in the taxing jurisdiction of the  
9 district that the board finds satisfies the requirements of Section  
10 7816.0402. The board must find that the proposed  
11 commercial-industrial or residential project or projects meet the  
12 criteria prescribed by Section 7816.0402.

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

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

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

1 seventh day before the date of the hearing, notice of the hearing  
2 must be:

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

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

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

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

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

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

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

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

13       (d) The agreement may:

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

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

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

25       Sec. 7816.0405. TAX ABATEMENT AGREEMENT: CERTIFICATED AIR  
26 CARRIER. (a) The district may enter into a tax abatement  
27 agreement by agreeing, in writing, with the owner or lessee of real

1 property that is located in a reinvestment zone to exempt from  
2 taxation for a period not to exceed 30 years a portion of the value  
3 of the real property or of personal property, or both, located in  
4 the zone and owned or leased by a certificated air carrier on the  
5 condition that the certificated air carrier:

6 (1) make specific real property improvements; or

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

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

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

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

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

21 (b) The agreement must:

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

24 (2) provide for:

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

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

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

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

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

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

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

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

1 proposed agreement.

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

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

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

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

22 Sec. 7816.0409. REGISTRY OF REINVESTMENT ZONES AND TAX  
23 ABATEMENT AGREEMENTS; ASSISTANCE TO DISTRICT. (a) The Texas  
24 Economic Development and Tourism Office shall maintain a central  
25 registry of reinvestment zones governed by this subchapter and of  
26 ad valorem tax abatement agreements executed under this subchapter.  
27 Before April 1 of the year following the year in which the zone is

1 designated or the agreement is executed, the district shall deliver  
2 to the office, the comptroller, and the Texas Commission on  
3 Environmental Quality a report that provides:

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

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

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

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

18 (1) facilities and structures; and

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

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

25 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

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

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

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

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

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

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

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

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

25       SECTION 2. (a) The legal notice of the intention to  
26 introduce this Act, setting forth the general substance of this  
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,  
2 officials, or entities to which they are required to be furnished  
3 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
4 Government Code.

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

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

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

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

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

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

26 (c) This section is not intended to be an expression of a  
27 legislative interpretation of the requirements of Section 17(c),

1 Article I, Texas Constitution.

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