By:  Creighton S.B. No. 2521

A BILL TO BE ENTITLED

AN ACT

relating to the powers, authorities, duties, and responsibilities of water districts.

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

SECTION 1.  Section 57.059, Water Code, is amended to read as follows:

Sec. 57.059.  QUALIFICATIONS FOR [~~ELECTED~~] DIRECTORS. To be qualified [~~for election~~] as a director, a person must be at least 18 years old, either own land subject to taxation in the district or be a qualified voter within the district, [~~property taxpaying elector of the precinct and county from which he is elected~~] and, in the case of an elected director, be a qualified voter within the precinct within the district established by the commissioners court in accordance with Section 57.058 [~~eligible under the constitution and laws of this state to hold the office to which he is elected~~].

SECTION 2.  Section 57.053, Water Code, is amended by amending subsection (a) and adding subsection (d) to read as follows:

(a)  A vacancy on an appointed board is filled by the appointment of a director by a majority vote of the commissioners court. [~~A director appointed to fill a vacancy must be a person qualified for election as a director under Section 57.059.~~] The commissioners court shall appoint directors so that the board will always have full membership.

(d)  A director appointed to fill a vacancy must be a person qualified as a director under Section 57.059.

SECTION 3.  Subchapter J, Chapter 49, Water Code, is amended by adding Section 49.316, Water Code, to read as follows:

Sec. 49.316.  DIVISION OF DISTRICT. (a) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(b)  An order dividing a district may create one or more new districts and may provide for the continuation of the district.

(c)  An order dividing the district shall:

(1)  name any new district;

(2)  include the metes and bounds description of the territory of each of the districts;

(3)  appoint temporary directors for any new district; and

(4)  provide for the division of assets and liabilities between the districts.

(d)  The board may adopt an order dividing the district before or after the date the board holds an election to confirm the district's creation.

(e)  The district may be divided only if the district:

(1)  has never issued any bonds; and

(2)  is not imposing ad valorem taxes.

(f)  A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area of the district at the time of creation.

(g)  On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h)  A new district created by the division of the district shall hold a confirmation and directors' election.

(j)  If the creation of a new district is confirmed, the new district shall provide the election date and results to the commission.

(k)  Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(l)  The district may continue to rely on confirmation, directors', bond, and tax elections held prior to the division.

(m)  Municipal consent to the creation of the district and to the inclusion of land in the district acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

SECTION 4.  Subsection 49.011(a), Water Code, is amended to read as follows:

(a)  On receipt by the commission of all required documentation associated with an application for creation of a district by the commission under Chapter 36, 50, 51, 54, 55, 58, 65, or 66, or Chapter 375, Local Government Code, the commission shall issue a notice indicating that the application is administratively complete.

SECTION 5.  Section 49.060, Water Code, is amended by amending subsections (a) and (a-1) and adding subsections (a-2) and (a-3) to read as follows:

(a)  A director is entitled to receive fees of office [~~of not more than $150 a day~~] for each day the director actually spends performing the duties of a director. The daily fee of office shall be set by resolution of the board and may not be more than the legislative per diem as set by the Texas Ethics Commission. In this subsection, "performing the duties of a director" means substantive performance of the management or business of the district, including participation in board and committee meetings and other activities involving the substantive deliberation of district business and in pertinent educational programs. The phrase does not include routine or ministerial activities such as the execution of documents, self-preparation for meetings, or other activities requiring a minimal amount of time.

(a-2)  Notwithstanding subsection (a-1), an authority created by special law that implements a groundwater reduction plan and is a wholesale water supplier may not set the annual limit at an amount greater than the amount that would be produced by 60 days of service per year at the maximum daily rate.

SECTION 6.  Subsection 49.065 is amended by adding subsection (d) to read as follows:

(d)  Subsection (b) does not apply to a personal email address of a director. In this subsection, a "personal email address" means an email address not paid for by public funds and not primarily used in the transaction of official business as long as an official email address is made publicly available for the director or for the governmental body.

SECTION 7.  Section 49.102, Water Code, is amended by amending subsection (j) and by adding subsection (k) to read as follows:

(j)  The provisions of this section requiring a confirmation election shall not be applicable to any district exercising the powers of Chapter 375, Local Government Code, or any district created by a special Act of the legislature that does not require a confirmation election.

(k)  The board shall consider the conduct and administration of the confirmation election and the other district elections held on the same date. If the board determines that it is in the best interest of the district and voters of the district for the district to administer the elections, the district shall establish precincts and designate polling locations inside the district's boundaries, notwithstanding any other law.

SECTION 8.  Section 49.106, Water Code, is amended to add subsection (f) to read as follows:

(f)  The board may submit new money bond authorization and refunding bond authorization in a single proposition at an election.

SECTION 9.  Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2225 to read as follows:

Sec. 49.2225.  LIMITATION ON USE OF EMINENT DOMAIN. A district operating under Chapters 51, 53, and 54 may not exercise the power of eminent domain outside the district boundaries to acquire:

(1)  a site for a water treatment plant or a wastewater treatment plant, unless the engineer for the district makes a recommendation, based on the engineer's professional judgment, to acquire the site;

(2)  a site for a park or recreational facility, as defined by Section 49.462;

(3)  an exclusive easement through a county regional park; or

(4)  a site, right of way, or easement for a road project.

SECTION 10.  Section 49.23602, Water Code, is amended by adding subsection (c-1) to read as follows:

(c-1)  An election under subsection (c) is not required if the adopted tax rate is less than or equal to the voter-approval tax rate.

SECTION 11.  Subchapter O, Chapter 51, Water Code, is amended by adding Section 51.7131 to read as follows:

Sec. 51.7131.  ALTERNATIVE SUBSTITUTION PROCEDURES. In the alternative to the provisions of this subchapter for the substitution of land within the district, a district may substitute land in the manner provided by Sections 54.739 through 54.747, Water Code.

SECTION 12.  Section 51.714, Water Code, is amended to read as follows:

Sec. 51.714.  ADDING LAND BY PETITION OF LANDOWNER. The owner of land may file with the board a petition requesting that the land described by metes and bounds in the petition be included in the district. Notwithstanding any municipal ordinance, resolution, or any other statute to the contrary, a municipality may not require the annexing district or the landowner who is requesting annexation to obtain the municipality's consent to the district's annexation of the additional land if, at the time the petition is filed, the land to be annexed is contiguous to the district and at any time within the preceding 12 months was not located within an area designated by ordinance or resolution of the municipality's governing body as the municipality's water and sewer service area or corporate limits, and the district has not previously issued any bonded indebtedness. The land shall be deemed to be contiguous to the district if it is separated from the district by public land or right of way. A district may not increase its total land area by more than 100 percent in any one calendar year under this section. A municipality's consent shall not be required for the inclusion or annexation of irrigable land within the boundaries of a district primarily engaged in providing irrigation service to lands within its boundaries.

SECTION 13.  Section 54.728, Water Code, is amended to read as follows:

Sec. 54.728.  CONSOLIDATION OF DISTRICTS. (a) Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 54.729-54.733 of this code.

(b)  One or more districts governed by the provisions of this chapter and one or more districts governed by the provisions of Chapter 375, Local Government Code, may consolidate into one district as provided by this subsection and Sections 54.729- 54.733 of this code. Directors of the consolidated district shall be elected and serve terms as provided by Section 49.103. The consolidation agreement may provide that the consolidated district continue operating with the powers, authorities, duties, and responsibilities of one of the original districts prior to consolidation.

SECTION 14.  Section 375.022, Local Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d)  A petition may request that succeeding boards be elected under Section 375.0645 rather than be appointed under Section 375.064.

(e)  The commission shall give notice of an application as required by Section 49.011, Water Code, and may conduct a hearing on the application if the commission determines that a hearing is necessary under Section 49.011, Water Code.

SECTION 15.  Subsection 375.025(c), Local Government Code is amended to read as follows:

(c)  If [~~after the hearing~~] the commission finds that the petition is sufficient and conforms to the requirements of Section 375,022(c) and that the district is feasible [~~and necessary~~] and would benefit the public, the commission by order shall make that finding and grant the petition. In determining if the project is feasible [~~and necessary~~] and would benefit the public, the commission shall consider:

(1)  the availability of comparable services from other systems, including special districts, municipalities, and regional authorities; and

(2)  the reasonableness of the proposed public purpose projects and services.

SECTION 16.  Subchapter D, Chapter 375, Local Government Code, is amended by adding Section 375.0645 to read as follows:

Sec. 375.0645.  ELECTED DIRECTORS. (a) This section applies to a district created by order of the commission providing for an elected board of directors as requested in the petition of the landowner under Section 375.022.

(b)  The commission shall appoint the initial directors.

(c)  Subsequent directors shall be elected in the manner provided by Subchapter D, Chapter 49, Water Code.

(d)  A director is entitled to receive fees of office and reimbursement for actual expenses as provided by Section 49.060, Water Code. Sections 375.069 and 375.070 do not apply to the board.

(e)  Subsection 49.052(f), Water Code, does not exempt a director from disqualification under Section 49.052, Water Code.

(f)  Sections 375.064, 375.161 and 375.243 do not apply to the district.

SECTION 17.  Section 375.065, Local Government Code is amended to read as follows: REMOVAL OF DIRECTOR. The governing body of the municipality after notice and hearing may remove a director appointed by that municipality for misconduct or failure to carry out the director's duties on petition by a majority of the remaining directors.

SECTION 18.  Section 375.071, Local Government Code is amended to read as follows:

(a)  One-half of the serving directors constitutes a quorum, and a concurrence of a majority of a quorum of directors is required for any official action of the district.

(b)  The written consent of at least two-thirds of the directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds, which may be authorized by a simple majority of a quorum at a board meeting. A director who was not present at a board meeting may execute a written consent outside of a board meeting.

SECTION 19.  Subsection 375.161(b), Local Government Code, is amended to read as follows:

(b)  This section does not apply to a tax or assessment, if a tax is authorized or approved by the voters of the district, or a required payment for a service provided by the district, including water and sewer services.

SECTION 20.  Section 375.208, Local Government Code is amended to read as follows:

A district must obtain approval of the commission to issue bonds as provided by Section 49.181, [~~Chapter 54,~~] Water Code, if the [~~it issues~~] bonds are to provide water, sewage, or drainage facilities. [~~Except as expressly provided by this section and Sections 375.062 and 375.064, a district is not subject to the jurisdiction of the commission.~~]

SECTION 21.  The following sections are repealed:

(a)  Sections 375.023 and 375.024 and Subsections 375.025(a) and (b), Local Government Code;

(b)  Subsection 54.030(b), as amended by Acts 2019, 86th Leg., R.S., Ch. 539 (H.B. 2914), Sec. 2;

(c)  Subsection 54.032(a), as amended by Acts 2019, 86th Leg., R.S., Ch. 539 (H.B. 2914), Sec. 3;

(d)  Subsection 54.033(a), as amended by Acts 2019, 86th Leg., R.S., Ch. 539 (H.B. 2914), Sec. 4;

(e)  Section 54.103, Water Code; and

(f)  Section 54.209.

SECTION 22.  The Texas Commission on Environmental Quality shall evaluate the economic feasibility of bonds issued by water districts in whole or in part in (i) Chambers, Liberty, Walker, Grimes, Brazos, Austin, and Wharton counties the same as the bonds issued by water districts in Harris County; (ii) Grayson, Wise, Parker, Hood, Johnson, Ellis, and Hunt counties the same as the bonds issued by water districts in Dallas County; (iii) Caldwell, Bastrop, Lee, Milam, Bell, Burnet, Blanco, Gillespie, and Kendall counties the same as the bonds issued by water districts in Travis County.

SECTION 23.  (a) Section 9 of this Act adding Section 49.2225, Water Code, as it applies to districts governed by Chapters 51 and 53, Water Code, takes effect December 31, 2024, and as it applies to districts governed by Chapter 54, Water Code, takes effect September 1, 2023.

(b)  Except as otherwise provided by this Act, 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, 2023.