

By: Jetton, et al.

H.B. No. 2815

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the powers, authorities, duties, and responsibilities  
3 of certain conservation and reclamation districts.

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

5 SECTION 1. Section 375.022, Local Government Code, is  
6 amended by adding Subsections (d) and (e) to read as follows:

7 (d) The petition may request that a succeeding board of  
8 directors be elected under Section 375.0645 instead of being  
9 appointed under Section 375.064.

10 (e) On receipt by the commission of a petition that complies  
11 with this section, the commission shall issue a notice indicating  
12 that the petition is administratively complete and may conduct a  
13 hearing on the petition in the manner provided by Section 49.011,  
14 Water Code, if the commission determines that a hearing is  
15 necessary.

16 SECTION 2. Section 375.025(c), Local Government Code, is  
17 amended to read as follows:

18 (c) If [~~after the hearing~~] the commission finds that the  
19 petition is sufficient and conforms to the requirements of Section  
20 375.022(c) and that the district is feasible [~~and necessary~~] and  
21 would benefit the public, the commission by order shall make that  
22 finding and grant the petition. In determining if the project is  
23 feasible [~~and necessary~~] and would benefit the public, the  
24 commission shall consider:

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

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

6 SECTION 3. Subchapter D, Chapter 375, Local Government  
7 Code, is amended by adding Section 375.0645 to read as follows:

8 Sec. 375.0645. ELECTION OF DIRECTORS. (a) This section  
9 applies only to a district created by order of the commission  
10 providing for an elected board of directors as requested in the  
11 petition requesting creation of the district as provided by Section  
12 375.022(d).

13 (b) The commission shall appoint the initial directors  
14 under Section 375.026, and subsequent directors are elected in the  
15 manner provided by Subchapter D, Chapter 49, Water Code.

16 (c) An elected director is entitled to receive fees of  
17 office and reimbursement for actual expenses as provided by Section  
18 49.060, Water Code.

19 (d) Sections 375.069 and 375.070 do not apply to an elected  
20 director.

21 (e) Section 49.052(f), Water Code, does not exempt an  
22 elected director from disqualification under that section.

23 (f) Sections 375.064, 375.161, and 375.243 do not apply to a  
24 district with an elected board.

25 SECTION 4. Section 375.065, Local Government Code, is  
26 amended to read as follows:

27 Sec. 375.065. REMOVAL OF DIRECTOR. The governing body of

1 the municipality after notice and hearing may remove a director  
2 appointed by the municipality for misconduct or failure to carry  
3 out the director's duties on petition by a majority of the remaining  
4 directors.

5 SECTION 5. Section 375.067(a), Local Government Code, is  
6 amended to read as follows:

7 (a) As soon as practicable after a director is appointed or  
8 elected as provided by this subchapter, the director shall execute  
9 a \$10,000 bond payable to the district and conditioned on the  
10 faithful performance of the director's duties.

11 SECTION 6. Section 375.068, Local Government Code, is  
12 amended to read as follows:

13 Sec. 375.068. OFFICERS. After directors are appointed or  
14 elected as provided by this subchapter and have qualified by  
15 executing a bond and taking the oath, they shall organize by  
16 electing a president, a vice-president, a secretary, and any other  
17 officers the board considers necessary.

18 SECTION 7. Section 375.071, Local Government Code, is  
19 amended to read as follows:

20 Sec. 375.071. QUORUM. (a) One-half of the serving  
21 directors constitutes a quorum, and a concurrence of a majority of a  
22 quorum of directors is required for any official action of the  
23 district.

24 (b) If at least two-thirds of the directors execute a  
25 written consent, a majority of a quorum at a board meeting may [~~The~~  
26 ~~written consent of at least two-thirds of the directors is required~~  
27 ~~to~~] authorize the levy of assessments, the levy of taxes, the

1 imposition of impact fees, or the issuance of bonds. A director may  
2 execute a written consent outside of a board meeting.

3 SECTION 8. Section 375.161(b), Local Government Code, is  
4 amended to read as follows:

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

9 SECTION 9. Section 375.208, Local Government Code, is  
10 amended to read as follows:

11 Sec. 375.208. COMMISSION APPROVAL. A district may not  
12 issue bonds to provide funding for [~~must obtain approval of the~~  
13 ~~commission as provided by Chapter 54, Water Code, if it issues bonds~~  
14 ~~to provide~~] water, sewage, or drainage facilities unless the  
15 commission determines that the project is feasible and issues an  
16 order approving the issuance of the bonds in the manner provided by  
17 Section 49.181, Water Code. [~~Except as expressly provided by this~~  
18 ~~section and Sections 375.062 and 375.064, a district is not subject~~  
19 ~~to the jurisdiction of the commission.~~]

20 SECTION 10. Section 49.011(a), Water Code, is amended to  
21 read as follows:

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

1 SECTION 11. Section 49.060, Water Code, is amended by  
2 amending Subsection (a) and adding Subsection (a-2) to read as  
3 follows:

4 (a) A director is entitled to receive fees of office [~~of not~~  
5 ~~more than \$150 a day~~] for each day the director actually spends  
6 performing the duties of a director. The board by resolution shall  
7 set the fees of office. The board may not set the fees of office at  
8 an amount greater than the amount of the per diem set by the Texas  
9 Ethics Commission for members of the legislature under Section 24a,  
10 Article III, Texas Constitution. In this subsection, "performing  
11 the duties of a director" means substantive performance of the  
12 management or business of the district, including participation in  
13 board and committee meetings and other activities involving the  
14 substantive deliberation of district business and in pertinent  
15 educational programs. The phrase does not include routine or  
16 ministerial activities such as the execution of documents,  
17 self-preparation for meetings, or other activities requiring a  
18 minimal amount of time.

19 (a-2) Notwithstanding Subsection (a-1), an authority  
20 created by special law, by resolution of the board, may not set the  
21 annual limit on the fees of office described by that subsection at  
22 an amount greater than the amount a director would receive for 60  
23 days of service a year at the maximum daily rate authorized by  
24 Subsection (a).

25 SECTION 12. Section 49.065, Water Code, is amended by  
26 adding Subsection (d) to read as follows:

27 (d) Subsection (b) applies to a personal e-mail address of a

1 director only if the district does not make available to the public  
2 an official e-mail address for the director or the district. In  
3 this subsection, "personal e-mail address" means an e-mail address  
4 that is not paid for by district money and is not used primarily for  
5 the transaction of official business of the district.

6 SECTION 13. Section 49.102, Water Code, is amended by  
7 amending Subsection (j) and adding Subsection (k) to read as  
8 follows:

9 (j) The provisions of this section requiring a confirmation  
10 election do not apply to a [~~shall not be applicable to any~~] district  
11 exercising the powers of Chapter 375, Local Government Code, or any  
12 district created by a special Act of the legislature that does not  
13 require a confirmation election.

14 (k) Notwithstanding any other law, if the board determines  
15 that it is in the best interest of the district and the voters of the  
16 district for the district to administer an election under this  
17 section, the district shall establish precincts and designate  
18 polling locations inside the boundaries of the district.

19 SECTION 14. Section 49.106, Water Code, is amended by  
20 adding Subsection (f) to read as follows:

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

24 SECTION 15. Section 49.181, Water Code, is amended by  
25 adding Subsection (f-1) to read as follows:

26 (f-1) For the purposes of evaluating the financial  
27 feasibility of a project financed by a bond, the commission shall

1 consider:

2 (1) a district located wholly or partly in Austin,  
3 Brazos, Chambers, Grimes, Liberty, Walker, or Wharton County as if  
4 the district were located in Harris County; and

5 (2) a district located wholly or partly in Bastrop,  
6 Bell, Blanco, Burnet, Caldwell, Gillespie, Kendall, Lee, or Milam  
7 County as if the district were located in Travis County.

8 SECTION 16. Section 49.23602(c), Water Code, is amended to  
9 read as follows:

10 (c) If the board of a district adopts a combined debt  
11 service, contract, and operation and maintenance tax rate that  
12 exceeds the district's mandatory tax election rate, an election  
13 must be held in accordance with the procedures provided by Sections  
14 26.07(c)-(g), Tax Code, to determine whether to approve the adopted  
15 tax rate. If the adopted tax rate is not approved at the election,  
16 the district's tax rate is the voter-approval tax rate. An election  
17 is not required if the adopted tax rate is less than or equal to the  
18 voter-approval tax rate.

19 SECTION 17. Subchapter J, Chapter 49, Water Code, is  
20 amended by adding Section 49.316 to read as follows:

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

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

27 (c) An order dividing the district shall:

1           (1) name any new district;

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

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

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

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

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

12               (1) has never issued any bonds; and

13               (2) is not imposing ad valorem taxes.

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

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

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

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

26           (j) A new district created by the division of the district  
27 must hold an election as required by this chapter to obtain voter

1 approval before the district may impose a maintenance tax or issue  
2 bonds payable wholly or partly from ad valorem taxes.

3 (k) Municipal consent to the creation of the district and to  
4 the inclusion of land in the district acts as municipal consent to  
5 the creation of any new district created by the division of the  
6 district and to the inclusion of land in the new district.

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

9 SECTION 18. Subchapter 0, Chapter 51, Water Code, is  
10 amended by adding Section 51.7131 to read as follows:

11 Sec. 51.7131. ALTERNATIVE SUBSTITUTION PROCEDURES.  
12 Notwithstanding this subchapter, a district may substitute land in  
13 the manner provided by Sections 54.739-54.747.

14 SECTION 19. Section 57.053, Water Code, is amended by  
15 amending Subsection (a) and adding Subsection (d) to read as  
16 follows:

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

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

25 SECTION 20. Section 57.059, Water Code, is amended to read  
26 as follows:

27 Sec. 57.059. QUALIFICATIONS FOR [~~ELECTED~~] DIRECTORS. To be

1 qualified to serve [~~for election~~] as a director, a person must:

2 (1) be at least 18 years old;

3 (2) own land subject to taxation in the district or be  
4 a qualified voter in the district; [~~property taxpaying elector of~~  
5 ~~the precinct and county from which he is elected~~] and

6 (3) if the director is elected, be a qualified voter of  
7 the precinct in the district established by the commissioners court  
8 under Section 57.058 from which the director is elected [~~be~~  
9 ~~eligible under the constitution and laws of this state to hold the~~  
10 ~~office to which he is elected~~].

11 SECTION 21. The following provisions are repealed:

12 (1) Sections 375.023 and 375.024, Local Government  
13 Code;

14 (2) Sections 375.025(a) and (b), Local Government  
15 Code;

16 (3) Section 54.030(b), Water Code, as amended by  
17 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
18 Session, 2019;

19 (4) Section 54.032(a), Water Code, as amended by  
20 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
21 Session, 2019;

22 (5) Section 54.033(a), Water Code, as amended by  
23 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular  
24 Session, 2019; and

25 (6) Section 54.103, Water Code.

26 SECTION 22. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2023.