

By: Jetton, et al.

H.B. No. 2815

Substitute the following for H.B. No. 2815:

By: King of Uvalde

C.S.H.B. No. 2815

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

SECTION 2. Section 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 (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. Effective December 1, 2024, Subchapter H,
9 Chapter 49, Water Code, is amended by adding Section 49.2225 to read
10 as follows:

11 Sec. 49.2225. LIMITATION ON USE OF EMINENT DOMAIN FOR
12 CERTAIN DISTRICTS. A district operating under Chapter 51, 53, or 54
13 may not exercise the power of eminent domain outside the district's
14 boundaries to acquire:

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

19 (2) a site for recreational facilities, as defined by
20 Section 49.462;

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

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

25 SECTION 17. Subchapter H, Chapter 49, Water Code, is
26 amended by adding Section 49.2226 to read as follows:

27 Sec. 49.2226. LIMITATION ON USE OF EMINENT DOMAIN FOR

1 MUNICIPAL UTILITY DISTRICTS. (a) A district operating under
2 Chapter 54 may not exercise the power of eminent domain outside the
3 district boundaries to acquire:

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

8 (2) a site for recreational facilities, as defined by
9 Section 49.462;

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

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

14 (b) This section expires December 1, 2024.

15 SECTION 18. Section 49.23602(c), Water Code, is amended to
16 read as follows:

17 (c) If the board of a district adopts a combined debt
18 service, contract, and operation and maintenance tax rate that
19 exceeds the district's mandatory tax election rate, an election
20 must be held in accordance with the procedures provided by Sections
21 26.07(c)-(g), Tax Code, to determine whether to approve the adopted
22 tax rate. If the adopted tax rate is not approved at the election,
23 the district's tax rate is the voter-approval tax rate. An election
24 is not required if the adopted tax rate is less than or equal to the
25 voter-approval tax rate.

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

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

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

7 (c) An order dividing the district shall:

8 (1) name any new district;

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

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

12 and

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

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

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

19 (1) has never issued any bonds; and

20 (2) is not imposing ad valorem taxes.

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

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

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

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

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

10 (k) Municipal consent to the creation of the district and to
11 the inclusion of land in the district acts as municipal consent to
12 the creation of any new district created by the division of the
13 district and to the inclusion of land in the new district.

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

16 SECTION 20. Subchapter 0, Chapter 51, Water Code, is
17 amended by adding Section 51.7131 to read as follows:

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

21 SECTION 21. Section 57.053, Water Code, is amended by
22 amending Subsection (a) and adding Subsection (d) to read as
23 follows:

24 (a) A vacancy on an appointed board is filled by the
25 appointment of a director by a majority vote of the commissioners
26 court. [~~A director appointed to fill a vacancy must be a person~~
27 ~~qualified for election as a director under Section 57.059.~~] The

1 commissioners court shall appoint directors so that the board will
2 always have full membership.

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

5 SECTION 22. Section 57.059, Water Code, is amended to read
6 as follows:

7 Sec. 57.059. QUALIFICATIONS FOR ~~[ELECTED]~~ DIRECTORS. To be
8 qualified to serve ~~[for election]~~ as a director, a person must:

9 (1) be at least 18 years old;

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

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

18 SECTION 23. The following provisions are repealed:

19 (1) Sections 375.023 and 375.024, Local Government
20 Code;

21 (2) Sections 375.025(a) and (b), Local Government
22 Code;

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

26 (4) Section 54.032(a), Water Code, as amended by
27 Chapter 539 (H.B. 2914), Acts of the 86th Legislature, Regular

1 Session, 2019;

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

5 (6) Sections 54.103 and 54.209, Water Code.

6 SECTION 24. Except as otherwise provided by this Act, this
7 Act takes effect immediately if it receives a vote of two-thirds of
8 all the members elected to each house, as provided by Section 39,
9 Article III, Texas Constitution. If this Act does not receive the
10 vote necessary for immediate effect, this Act takes effect
11 September 1, 2023.