

By: Jetton

H.B. No. 2815

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 __. 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 __. 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.

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

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

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

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

11 (c) An order dividing the district shall:

12 (1) name any new district;

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

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

16 and

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

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

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

23 (1) has never issued any bonds; and

24 (2) is not imposing ad valorem taxes.

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

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

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

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

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

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

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

20 SECTION __. Subsection 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, or Chapter 375, Local Government Code, the commission shall
26 issue a notice indicating that the application is administratively
27 complete.

1 SECTION __. Section 49.060, Water Code, is amended by
2 amending subsections (a) and (a-1) and adding subsections (a-2) and
3 (a-3) to read as 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 daily fee of office shall
7 be set by resolution of the board and may not be more than the
8 legislative per diem as set by the Texas Ethics Commission. In this
9 subsection, "performing the duties of a director" means substantive
10 performance of the management or business of the district,
11 including participation in board and committee meetings and other
12 activities involving the substantive deliberation of district
13 business and in pertinent educational programs. The phrase does not
14 include routine or ministerial activities such as the execution of
15 documents, self-preparation for meetings, or other activities
16 requiring a minimal amount of time.

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

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

24 (d) Subsection (b) does not apply to a personal email
25 address of a director. In this subsection, a "personal email
26 address" means an email address not paid for by public funds and
27 not primarily used in the transaction of official business as long

1 as an official email address is made publicly available for the
2 director or for the governmental body.

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

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

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

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

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

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

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

1 acquire:

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

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

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

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

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

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

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

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

24 SECTION _____. Section 51.714, Water Code, is amended to
25 read as follows:

26 Sec. 51.714. ADDING LAND BY PETITION OF LANDOWNER. The
27 owner of land may file with the board a petition requesting that the

1 land described by metes and bounds in the petition be included in
2 the district. Notwithstanding any municipal ordinance, resolution,
3 or any other statute to the contrary, a municipality may not require
4 the annexing district or the landowner who is requesting annexation
5 to obtain the municipality's consent to the district's annexation
6 of the additional land if, at the time the petition is filed, the
7 land to be annexed is contiguous to the district and at any time
8 within the preceding 12 months was not located within an area
9 designated by ordinance or resolution of the municipality's
10 governing body as the municipality's water and sewer service area
11 or corporate limits, and the district has not previously issued any
12 bonded indebtedness. The land shall be deemed to be contiguous to
13 the district if it is separated from the district by public land or
14 right of way. A district may not increase its total land area by
15 more than 100 percent in any one calendar year under this section. A
16 municipality's consent shall not be required for the inclusion or
17 annexation of irrigable land within the boundaries of a district
18 primarily engaged in providing irrigation service to lands within
19 its boundaries.

20 SECTION _____. Section 54.728, Water Code, is amended to
21 read as follows:

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

26 (b) One or more districts governed by the provisions of this
27 chapter and one or more districts governed by the provisions of

1 Chapter 375, Local Government Code, may consolidate into one
2 district as provided by this subsection and Sections 54.729- 54.733
3 of this code. Directors of the consolidated district shall be
4 elected and serve terms as provided by Section 49.103. The
5 consolidation agreement may provide that the consolidated district
6 continue operating with the powers, authorities, duties, and
7 responsibilities of one of the original districts prior to
8 consolidation.

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

11 (d) A petition may request that succeeding boards be elected
12 under Section 375.0645 rather than be appointed under Section
13 375.064.

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

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

20 (c) If [~~after the hearing~~] the commission finds that the
21 petition is sufficient and conforms to the requirements of Section
22 375,022(c) and that the district is feasible [~~and necessary~~] and
23 would benefit the public, the commission by order shall make that
24 finding and grant the petition. In determining if the project is
25 feasible [~~and necessary~~] and would benefit the public, the
26 commission shall consider:

27 (1) the availability of comparable services from other

1 systems, including special districts, municipalities, and regional
2 authorities; and

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

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

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

11 (b) The commission shall appoint the initial directors.

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

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

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

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

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

27 SECTION _____. Section 375.071, Local Government Code is

1 amended to read as follows:

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

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

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

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

17 SECTION _____. Section 375.208, Local Government Code is
18 amended to read as follows:

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

25 SECTION _____. The following sections are repealed:

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

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

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

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

7 (e) Section 54.103, Water Code; and

8 (f) Section 54.209.

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

19 SECTION _____. (a) Section ___ of this Act adding Section
20 49.2225, Water Code, as it applies to districts governed by
21 Chapters 51 and 53, Water Code, takes effect December 31, 2024, and
22 as it applies to districts governed by Chapter 54, Water Code, takes
23 effect September 1, 2023.

24 (b) Except as otherwise provided by this Act, this Act takes
25 effect immediately if it receives a vote of two-thirds of all the
26 members elected to each house, as provided by Section 39, Article
27 III, Texas Constitution. If this Act does not receive the vote

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1 necessary for immediate effect, this Act takes effect September 1,
2 2023.