

CHAPTER 951

H.B. No. 2433

An Act relating to the administration, powers, duties, and operations of and addition of territory to road utility districts and to conservation and reclamation districts and municipal utility districts operating with road utility district powers; amending Article 6674r-1, Vernon's Texas Civil Statutes, and Chapter 54, Water Code.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 5, Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) By order of its governing board, which has received the written consent of the landowners within its boundaries, a conservation and reclamation district, operating pursuant to Chapter 54, Water Code, and which has the power to levy taxes, may, with the approval of the Texas Water Commission, petition the commission to acquire the powers granted in this Act to a road utility district, under the authority of Article III, Section 52, Texas Constitution. As soon as practicable after such petition by the conservation and reclamation district has been filed with the commission, the commission shall conduct a hearing in accordance with Section 7 of this Act and shall issue an order in accordance with Section 8 of this Act either approving or denying such petition by the conservation and reclamation district.

(e) After the commission grants the conservation and reclamation district's petition to acquire road utility district powers, but before the exercise of road utility district powers by the conservation and reclamation district, the conservation and reclamation district shall call and hold an election on the question of whether said conservation and reclamation district should exercise road utility district powers. Upon the majority vote of the resident electors of said conservation and reclamation district voting in such election, the conservation and reclamation district, now and hereafter, shall exercise all road utility district powers, now and hereafter conferred by the general laws of this state.

(f) Such conservation and reclamation district shall conform to the rules applicable to the creation and administration of road utility districts as provided by this Act and as provided by the commission, except as otherwise provided in Subsections (d) and (e) of this section. In the event of any conflict between the provisions of the Water Code and the general laws of this state applicable to the conservation and reclamation district and the provisions of this Act, the provisions of the Water Code and the general laws of this state applicable to the conservation and reclamation district shall prevail.

SECTION 2. Subsection (g), Section 11, Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) If a majority of the voters at the election approve the creation of the district, the temporary board shall declare the five candidates for director who received the highest number of votes to be elected as the directors of the district. If two or more candidates tie for the fifth highest number of votes for a director's position, the temporary board shall select the fifth director by lot from those tying for the position. The ~~two~~ ~~three~~ directors elected with the ~~fewest~~ ~~highest~~ number of votes shall serve until the qualification of the ~~two~~ ~~three~~ new directors elected at the ~~next~~ ~~second~~ regular directors' election, and the ~~three~~ ~~two~~ remaining directors shall serve until the qualification of the ~~three~~ ~~two~~ directors elected at the ~~second~~ ~~third~~ regular directors' election.

SECTION 3. Section 12, Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. **BOARD OF DIRECTORS.** (a) A district shall be governed by a board of directors composed of five members, who are elected as provided by this Act, *except as otherwise provided in Subsection (b) of this section.*

(b) If completed district facilities are to be conveyed to only one governmental entity, then the board of directors shall be the governing body of the governmental entity to whom completed facilities have been conveyed pursuant to Section 40 of this Act, acting in an ex officio capacity, if (i) all construction, acquisition, and improvement of facilities provided in the plans approved by the commission have been completed, (ii) the existing board of directors consent to the transfer of duties and powers to the governing body of the governmental entity, (iii) the governing body of the governmental entity consents to assuming the administrative powers and duties of the district, and (iv) the commission approves such transfer of administration of the district.

(c) From and after the effective date of the transfer of governance of a district in accordance with Subsection (b) of this section, the governing board of the governmental entity to whom completed facilities have been conveyed pursuant to Section 40 of this Act, shall serve as the ex officio board of directors of the district. The existing board of directors from whom such transfer of administrative powers and duties of the district have been effectuated pursuant to this section shall be dissolved upon the effective date of said transfer of administrative powers and duties and such administrative powers and duties shall vest and become a part of the powers and duties of the governing body of the governmental entity to whom completed facilities have been conveyed.

SECTION 4. Section 33, Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 33. **GENERAL POWERS.** A district may:

(1) acquire facilities *whether inside or outside of district boundaries*, and property for facilities, *whether inside or outside of district boundaries*, and may construct or ~~and~~ improve facilities, *whether inside or outside of district boundaries*, as provided by this Act;

(2) provide financing for facilities and their construction, acquisition, and improvement from money available to the district under this Act;

(3) advise, consult, contract, cooperate with, and enter into agreements with the federal government and its agencies, the state and its agencies, local governments, persons, and private entities;

(4) apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source;

(5) assume the contracts and obligations of previous owners of facilities and property acquired by the district and perform the contracts and obligations to the same extent that any other purchaser or assignee would be bound; *provided, however, only if such contracts and obligations of previous owners were created pursuant to the competitive bidding requirements provided within Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes);* ~~and~~

(6) contract with any person for construction, acquisition, and improvement of facilities; *and*

(7) *exercise such authority, powers, rights, duties, and other functions which will permit accomplishment of the purposes for which the district was created.*

SECTION 5. Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), is amended by adding Section 33.1 to read as follows:

Sec. 33.1. ANNEXATION BY THE DISTRICT. (a) *The owner or owners of land contiguous to the district or otherwise may file with the board a petition requesting that there be included in the district the land described in the petition by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.*

(b) *If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxes which have been voted but are unissued, the board may require the petitioner or petitioners to assume their share of the outstanding bonds, notes, or other obligations and the voted but unissued tax bonds of the district and authorize the board to levy a tax on their property in each year while any of the bonds, notes, or other obligations payable in whole or in part from taxation are outstanding to pay their share of the indebtedness.*

(c) *The petition of the landowner or landowners to add land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.*

(d) *The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district.*

(e) *If the district has bonds payable in whole or in part from taxation which are voted but unissued at the time of an annexation, and the petitioner or petitioners assume the bonds and authorize the district to levy a tax on their property to pay bonds, then the board may issue the voted but unissued bonds even though the boundaries of the district have been altered since the authorization of the bonds.*

(f) *Before any order of the board adding land to the district is final, written consent of the commission to such addition of land is necessary. Prior to granting such approval, the commission shall consult with the governmental entity to whom completed district facilities will be conveyed.*

(g) *A petition which is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county or counties in which the land is located.*

SECTION 6. Section 34, Article 6674r-1, Vernon's Texas Civil Statutes, is amended by adding Subsections (c) and (d) to read as follows:

(c) *A facility that is to be constructed, acquired, or improved outside of district boundaries shall not be constructed, acquired, or improved unless the district presents sufficient evidence to the commission to show that such construction, acquisition, or improvement is of benefit to the district.*

(d) *Construction, acquisition, or improvement of a facility outside district boundaries requires approval by the commission and the governmental entity to whom completed facilities will be conveyed.*

SECTION 7. Chapter 54, Water Code, is amended by adding Section 54.234 to read as follows:

Sec. 54.234. ACQUIRING ROAD UTILITY DISTRICT POWERS. Any district, which has the power to levy taxes, may, with the approval of the commission petition the State Highway and Public Transportation Commission, to acquire the powers granted to road utility districts operating pursuant to Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), under the authority of Article III, Section 52, Texas Constitution. As soon as practicable after such petition has been filed with the State Highway and Public Transportation Commission, the State Highway and Public Transportation Commission shall conduct a hearing in accordance with Section 7, Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), and shall issue an order in accordance with Section 8, Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), either approving or denying such petition. Any district so petitioning the State Highway and Public Transportation Commission shall conform to the rules applicable to the creation and administration of such districts as provided by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes). In the event of any conflict between the provisions of the Water Code and the general laws of this state applicable to the district and the provisions of Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), the provisions of the Water Code and the general laws of this state applicable to the district shall prevail.

SECTION 8. (a) Chapter 54, Water Code, is amended by adding Section 54.235 to read as follows:

Sec. 54.235. AUTHORITY TO CONTRACT. Any district created by general law or special act of the legislature in existence for at least 10 years which lies within a county that borders on the Gulf of Mexico and that has a population of 190,000 and which has the powers of this chapter and which also has or is authorized to acquire road utility district powers pursuant to Section 54.234, of this code, may contract with the county within which it is located with respect to the ownership,

maintenance, and operation of any facilities or improvements which such district is authorized or may be authorized to acquire by purchase, gift, lease, or otherwise, except by condemnation, any and all property or interests in property, whether real, personal, or mixed, tangible or intangible, located inside or outside such county, that are found to be necessary for such improvements or facilities. Such county may enter into contracts with such districts as permitted by this section for any term of years not exceeding 40 for the management and operation of any or all of such property and interests in property on such terms as the commissioners court of such county deems appropriate.

(b) If for any reason the authority granted in this section should be invalid, such fact shall not affect the validity of any other provisions of this Act, and the legislature hereby declares that it would have enacted the valid provisions of this Act notwithstanding the invalidity of this section.

SECTION 9. This Act takes effect September 1, 1985.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 9, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 2433 on May 27, 1985, by the following vote: Yeas 132, Nays 5, 3 present, not voting; passed by the Senate, with amendments, on May 27, 1985, by a viva-voce vote.

Approved: June 15, 1985

Effective: September 1, 1985