

CHAPTER 707

H.B. No. 993

An Act relating to exclusion of certain urban property from defined water districts.

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

SECTION 1. DEFINITIONS. As used in this Act:

(1) "Urban property" means land that has been subdivided into town lots, or town lots and blocks, or small parcels of the same general nature of town lots, or town blocks and lots, designed, intended, or suitable for residential or other nonagricultural purposes, as distinguished from farm acreage, including streets, alleys, parkways, parks, and railroad property and rights-of-way within that subdivided land and that is in a subdivision that is within the corporate limits or extraterritorial jurisdiction of a city that has subdivision approval jurisdiction under the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), or Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), and for which a plat or map of the subdivision has been filed and recorded in the office of the county clerk of the county in which the subdivision or any part of the subdivision is located.

(2) "District" means any district or authority created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution now existing or hereafter created for the principal purpose of, or principally engaged in, furnishing water for the irrigation of agricultural lands.

SECTION 2. EXCLUSION OF URBAN PROPERTY. Urban property located within the boundaries of a district may be excluded from the district by the board of directors in the manner and on the conditions provided by this Act. Urban property may be excluded only after the following have been paid to the district:

(1) all taxes, assessments, and other lawful charges of the district accrued on the property to be excluded, together with all lawful interest and penalties accrued on those taxes, assessments, and charges; and

(2) the proportionate part of the outstanding bonded indebtedness or indebtedness in connection with a loan from an authorized agency of the United States for which the property proposed to be excluded is liable, as determined under this Act; and

(3) agreement on a reasonable determined amount to be paid by the city or other supplier of potable water to compensate the district for loss of revenue occasioned by the said exclusion.

SECTION 3. APPLICATION FOR EXCLUSION. (a) The owner or owners of urban property included within the boundaries of a district and subject to taxation by the district, and on which all taxes, assessments, and other lawful charges, and penalties and interest, that have accrued to the district have been paid, may make written sworn application to the district to exclude that property from the district.

(b) The application must:

(1) include a sworn acknowledgement by the owner or owners of the property;

(2) describe the property to be excluded by identifying the lot or block number of the subdivision and the name or designation of the subdivision as shown on the recorded plat of the subdivision, or by some other method of identification; and

(3) state that the property is used or intended to be used for the purposes for which it was subdivided, and that the property is not used or intended to be used, in whole or in part, for agricultural purposes.

(c) A correct copy of the recorded map or plat of the subdivision must accompany the application and must clearly delineate the part of the subdivision, if less than the whole, to be excluded from the district.

(d) The applicant shall also furnish to the district evidence satisfactory to, or required by, the board of directors of the applicant's ownership of the property proposed to be excluded, and of the right of the applicant to have the property excluded from the district.

SECTION 4. CONSIDERATION OF APPLICATION. (a) As soon as practicable after the filing of the application, the board of directors of the district shall consider the application and inquire into all the facts relating to the application considered by the board to be necessary to a determination of whether a public hearing on the application should be held.

(b) After consideration and investigation, if the board finds that all taxes, assessments, and charges of the district on the property, and interest and penalties on those amounts, due to the district up to the date of the filing of the application, have been paid, that the property described in the application is owned by the applicant, is urban property, and is not used or intended to be used for agricultural purposes but will require a source of treated potable water from the city in which the subdivision is located, and that the exclusion of the property will not cut off the district or its facilities from ready and convenient access to other land remaining in the district for irrigation or other district purposes, the board shall pass an order approving further consideration of the application. If the board is unable to make any one of these findings, it shall adopt a resolution rejecting the application, and the resolution of the board rejecting the application is final and not subject to review by any other body, tribunal, or authority.

(c) If the board approves further consideration of the application, it shall proceed to determine the proportionate amount of the bonded or contractual indebtedness for which the property to be excluded is liable as provided by Subsection (d) of this section.

(d) If the district has outstanding bonded indebtedness, the board shall obtain from the chief appraiser a certified copy of the appraised value of all the property to be excluded for the five years immediately preceding the year in which the application is filed, as shown by the tax rolls of the district, and the appraised value of all taxable property in the district according to the most recent tax rolls of the district. The part of the total outstanding bonded indebtedness of the district to be paid by the applicant as a condition precedent to the exclusion of the property is that proportion of the indebtedness, including unpaid interest computed to the date of the order, that the appraised value of the property to be excluded bears to the appraised value of all taxable property in the district according to the most recent tax rolls. If the district has contractual or other indebtedness being repaid on the benefit tax basis, the board shall obtain from the appropriate records the manner in which the tax is assessed, and from those records the district shall calculate the part of the total outstanding indebtedness of the district remaining to be paid attributable to the property to be excluded. The order of the board approving further consideration of the application also shall state the amounts required to be paid by Section 2 of this Act as a condition of the exclusion of the property.

SECTION 5. FURTHER PROCEEDINGS ON APPLICATION. The order of the board approving further consideration of the application has no force or effect, and no further proceeding may be held on the application unless the applicant, within 20 days after adoption of the order or within a period of up to 30 days after adoption of the order as ordered by the board, deposits with the district the amounts due under Section 2 of this Act.

SECTION 6. NOTICE AND HEARING. (a) If the deposit is made within the time provided by Section 5 of this Act, the board shall set the application for public hearing to be held at the regular office of the district not less than 15 nor more than 30 days after the date of the hearing order.

(b) The board shall have notice of the hearing posted in a conspicuous place in the office of the district and at the courthouse of the county in which the property proposed to be excluded is situated.

SECTION 7. RESOLUTION EXCLUDING URBAN PROPERTY. (a) If, as a result of such hearing, the board of directors determines and finds that the owners of a majority in acreage of the urban property do not desire irrigation of that property, or that the urban property is not used or intended to be used for agricultural purposes, the board of directors shall adopt a resolution setting forth that determination and those findings and shall exclude the urban property or the part of the urban property to which the determination and findings are made. If any canals, ditches, pipelines, pumps, or other facilities of the district are located on land excluded in the resolution, the exclusion does not affect or interfere with any rights that the district might have to maintain and continue operation of the facilities as located for the purpose of servicing land remaining in the district.

(b) A copy of the resolution excluding urban property from the district certified to and acknowledged by the secretary of the board of directors shall be recorded by the district in the deed records in the county in which the excluded property is located as evidence of the exclusion.

(c) On the passage of the resolution the property excluded does not constitute a part of the district, the owner of the property has no further liability to the district or for any bonded or other indebtedness of the district, and is not subject to further taxation by the district.

(d) If the board determines from the hearing that for any reason the application should not be granted, it shall adopt a resolution rejecting the application, and the deposit made by the applicant is subject to withdrawal by the applicant or on the board's order.

SECTION 8. WATER RIGHTS. After the district excludes land from its boundaries that lies within the corporate boundaries or extraterritorial jurisdiction of any city, the city or other municipal supplier who proposes to serve the land with a potable water supply may petition the district to convert the proportionate water rights previously allocated for the land from irrigation use rights to municipal use rights for the use and benefit of the city or other municipal supplier. The district shall compute the proportionate water rights available and shall proceed with appropriate administrative proceedings to convert the irrigation use rights to municipal use rights. However, the city or other municipal supplier shall deposit with the district the amount that the district estimates will be its reasonable expenses and attorney's fees incurred in those administrative proceedings before the district is obligated to initiate the administrative proceedings. On approval of the conversion by the Texas Water Commission, the water shall be delivered to the city or other municipal supplier by the district in the manner those entities may agree to under the Water Code.

SECTION 9. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 2, 1985, by the following vote: Yeas 138, Nays 0, 1 present, not voting; passed by the Senate on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 14, 1985

Effective: Immediately