

CHAPTER 679

S.B. No. 1426

An Act relating to the creation, organization, administration, and financing of road districts encompassing territory in two or more contiguous counties; amending Part 4, County Road and Bridge Act, as amended (Article 6702-1, Vernon's Texas Civil Statutes).

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

SECTION 1. Part 4, County Road and Bridge Act, as amended (Article 6702-1, Vernon's Texas Civil Statutes), is amended to read as follows:

"PART 4. DISTRICTS IN ADJOINING COUNTIES

"Section 4.461. **POWER TO ISSUE BONDS.** (a) In this part, 'any number of adjoining counties' means two or more counties contiguous to each other.

"(b) Pursuant to authority conferred by Article III, Section 52, of the Texas Constitution, any number of adjoining counties *or portions of counties* within this state may issue bonds in any amount not to exceed one-fourth of the assessed valuation of the real property of the territory included within the counties *or defined portions of counties* and may levy and collect annually ad valorem taxes to pay the interest on the bonds and may provide a sinking fund for the redemption of the bonds for the purpose of the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes or in aid of these purposes.

“Section 4.462. **PROCEDURE PRESCRIBED.** In the event the qualified voters residing within two or more adjoining counties or portions of counties desire to combine the counties or portions of counties into one defined road district for the purpose of the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes or in aid of these purposes, it shall be lawful for them to do so by following the procedure prescribed in the subsequent sections of this part.

“Section 4.463. **PETITION FOR ROAD DISTRICT.** (a) The petition for the creation and establishment of a defined road district composed of two or more adjoining counties or portions of counties must be signed by not less than 50 qualified voters or a majority of qualified voters, whichever is less, in each county or in each portion of each county if less than the entire county is included in the proposed road district. A separate petition for the establishment of the district must be presented to the commissioners court of each county or portion of a county in the proposed district. The proceedings prescribed by this section shall be had in each county or portion of a county.

“(b) Each petition must describe in general terms the road or roads proposed to be constructed and in like general terms the cities, towns, and villages, if any, to be connected by the road or roads and must name each county proposed to be included within the road district or define the portion of each county proposed to be included if less than the entire county is proposed to be included within the road district. Each petition must request the commissioners court to order an election to determine whether the county or defined portions of counties shall be included in the proposed road district.

“(c) On presentation of each petition, the court to which it is presented shall fix a time the petition shall be heard, and the date of hearing must be not less than 15 nor more than 30 days after the date of the order. The hearing shall be held at the regular meeting place of the commissioners court in the county courthouse.

“(d) The county clerk shall immediately issue notice of the time and place of hearing. The notice must inform all concerned persons of the time and place of hearing and of their right to appear at the hearing and contend for or protest the ordering of the election. The notice must set forth in substance the contents of the petition and must give the name of each county proposed to be included in whole or in part within the road district. The clerk shall execute the notice by posting copies in five public places within the county as follows: one copy at the courthouse door and one copy in each commissioners precinct contained wholly or partially within the proposed road district. The notice shall be posted for at least 10 days prior to the date of the hearing. The notice shall also be published in a newspaper of general circulation, published in the county one time, and at least five days prior to the hearing. If no newspaper is published in the county, the posting of the notice as directed previously in this section is sufficient. The duties imposed by this part upon the clerk may be performed by the clerk in person or by a deputy as provided by law for similar duties.

“(e) At the time and place set for the hearing of the petition or the subsequent date as may then be fixed, the court shall proceed to hear the petition and all matters in respect to the proposed road district. Any interested person may appear before the court in person or by attorney and contend for or protest the creation of the proposed road district. The hearing may be adjourned from day to day and from time to time as the court may consider necessary. If on the hearing of the petition it is found that the petition is signed by the requisite number [50] of the qualified voters of the county or defined portions of counties and that due notice of the hearing has been given and that the creation of the proposed district by the consolidation of the county or defined portions of counties with the other counties or defined portions of counties named in the proceedings would be for the benefit of all taxable property situated in the county or defined portions of counties, the court may issue and cause to be entered of record in its minutes an order directing that an election be held within the county or the defined portions of counties. The court shall order the election to be held on the next uniform election date authorized by Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code), that occurs after the 15th day after the day the order is made. Notice of the election shall be given in the same manner and for the same time required for notices of the hearing on the petition. The elections must be held on the same date in each county.

“(f) The manner of holding the election and canvassing and making the returns shall be governed by the general laws of this state when not in conflict with this part.

“(g) When the election for the creation of the district has been held, the officers named by the commissioners courts of the different counties to hold the election in their respective counties shall make returns of the election to the commissioners courts of their respective counties and return all ballot boxes to the clerk of the commissioners court of the county. The commissioners court of each county or portion of a county in the proposed road district, on receiving the returns of the election, shall canvass the returns and certify the result of the election in the county or in the defined portion to the county judge of the county having the largest number of inhabitants as

shown by the most recent federal census. On receipt of the returns of the election in the different counties *or the defined portions of counties* of the district, the county judge designated to canvass the vote shall canvass the vote and certify the result to each county *or the defined portions of counties* in the proposed district. If the votes cast in each and all counties *or in each and all defined portions of counties* show a majority in favor of the consolidation of the counties *or portions of counties* into a defined road district, the commissioners court of each county *or portion of a county* shall declare the defined road district created, and the district shall be known as _____ Counties Road District of Texas, enumerating the counties embraced within the district *in whole or in part* in alphabetical order.

“Section 4.464. DIRECTORS OF DISTRICT. The county judges and county commissioners of the counties composing the district shall be ex officio directors of the district. *If less than the entire county is included within the road district the county commissioners whose precincts are included in whole or in part in the road district, together with the county judge of each county included in whole or in part in the road district, shall be ex officio directors of the district.* They have the same power and authority with reference to the management of the affairs of the district as commissioners courts have in respect of road districts wholly within one county. The district when so formed shall be a defined district within the meaning of the constitution and a body corporate.

“Section 4.465. PURCHASING IMPROVED ROADS. The road district may or may not purchase or take over improved roads already constructed by any county or other road district included in the district. In the event the road district is determined to take over or purchase the improved roads, the take-over or purchase shall be done in conformity with the procedure prescribed by Part 3 of this subchapter except that no petition shall be necessary.

“Section 4.466. BOND ELECTION. (a) After the creation of the road district, the commissioners court of the counties *or portions of counties* included in the district at a joint meeting held in the county having the largest number of inhabitants as shown by the most recent federal census may order an election to be held within the district. The court shall order the election to be held on the next uniform election date authorized by Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon’s Texas Election Code), that occurs after the 30th day after the day the order is made. The voters shall be permitted to vote for or against the proposition:

“Authorizing the _____ Counties Road District of Texas to issue the bonds of the district in the total sum of \$ _____ and to levy annually ad valorem taxes on all taxable property in the district to pay the interest on the bonds and create a sinking fund to redeem the principal at maturity for the purpose of the construction, maintenance, and operation of macadamized, graveled, or paved road and turnpikes or in aid of these purposes within the district.

“The roads to be constructed from the proceeds of the sale of the bonds and the amount apportioned to each road is as follows:

“(Here set out the road or roads as described in the order and notice of the election to determine the creation of the district and the amount to be expended on each road or roads.)”

“(b) If it is proposed to purchase or take over the improved roads already constructed by an included county or any included road district, the election order shall be in conformity with the provisions of Section 4.451 of this Act.

“Section 4.467. NOTICE OF ELECTION AND DECLARING RESULT. After the election order has been passed at a joint meeting of the commissioners courts [~~as the ex officio directors of the road district~~], a certified copy of the order shall be transmitted to the county clerk of each county *or portion of a county* within the district. Thereupon, the commissioners court of each county *or portion of a county* at a regular or special session held in their respective counties shall give notice of the proposed bond election to be held on the date named in the order of the courts passed at the joint meeting. Each election notice must state the time and place of holding the election and must state in substance the contents of the election order. All other proceedings in respect of the question so submitted shall be in accordance with the provisions of Section 4.411 of this Act relative to county road bond elections. The [~~commissioners courts of the counties as~~] ex officio directors of the road district shall by order declare the result [5] and [~~the county judge shall~~] certify the result to the county judge of the county having the largest population. If at the election two-thirds of the qualified voters of each county *or each portion of a county* voting at the election cast their ballots in favor of the issuance of the bonds, the commissioners court of each county *or portion of a county*, as soon after the declaration of the result as practicable, shall pass the orders that may be necessary in the issuance of the bonds and the levy of taxes in payment of the bonds.

“Section 4.468. MATURITY DATES, INTEREST, AND PROCEEDS. The general laws relative to county road bonds authorized pursuant to Article III, Section 52, of the Texas Constitution, shall apply to the authorization, issuance, approval, certification, registration, sale,

and payment of the bonds provided for in this part, except as otherwise provided. The bonds shall mature not later than 40 years from their date and shall bear interest not to exceed the interest rate prescribed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2 [717k-2], Vernon's Texas Civil Statutes). The necessary expense incident to the issuance of the bonds may be paid out of the proceeds from the sale of the bonds. On the issuance and sale of the bonds provided for in this part, the commissioners court of each county *or portion of a county* may pass all orders that may be necessary, setting aside so much of the proceeds derived from the sale of the bonds as the *ex officio* directors of the road district may consider necessary to be used for the maintenance, repair, and upkeep of the roads of the district.

"Section 4.469. BOND TAX. The amount of the bond tax to be levied annually shall be determined by the commissioners courts of the respective counties *or portions of counties* before the period at which the annual levy of taxes is made in the counties composing the district. The proportion of the tax levied against the property in each of the counties, respectively, shall be levied by the commissioners court of the county at the same time and in the same manner that other taxes in the counties are levied. The levy and collection of the tax shall be governed by the same laws that govern the levy and collection of county taxes.

"Section 4.470. ISSUANCE OF BONDS. The bonds shall be issued as nearly as may be in form in use in this state in the issuance of county bonds, except that the bonds shall be issued in the name of the district and shall be signed by the county judges of the several counties *or portions of counties* composing the district and countersigned by the county clerks of the counties, with the seals of the commissioners courts of the counties impressed on the bonds. The bonds shall be attested by the treasurer or depository of the district.

"Section 4.471. SALE OF BONDS. The commissioners court of the counties *or portions of counties* embraced in the district, at a joint meeting held in the county having the largest number of inhabitants as shown by the most recent federal census, shall advertise the bonds for sale. The advertisement or notice of the proposed sale shall be published in a newspaper of general circulation published in the district, one time, and not later than the 10th day before the day fixed for the sale. The commissioners courts shall convene in joint meeting on the date specified in the published notice for the sale of the bonds. The joint meeting shall be held in the county having the largest number of inhabitants for the purpose of considering bids for the purchase of the bonds. The courts are entitled to reject any and all bids. The bonds shall be sold by the courts at the joint meeting either in whole or in parcels at a price permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). The purchase money shall be placed in the treasury or depository of the district to the credit of the available road fund of the district.

"Section 4.472. MEETINGS OF COMMISSIONERS COURTS. Any joint meeting of the courts *or the ex officio directors* may be adjourned from day to day and from time to time as the courts may consider necessary and advisable.

"Section 4.473. BOND RECORDS. The commissioners courts for each county *or portion of a county* included within the district shall make a record of a list of the bonds. The record shall be kept by the county clerk of each county, showing their numbers, amount, rate of interest, date of issue, when due, and where payable. The record is a public record in each county.

"Section 4.474. WARRANTS. The purchase money for the bonds shall be paid out by the treasurer or depository of the district on warrants drawn on the available road fund issued by the county clerk of the county having the largest number of inhabitants. The warrants shall be countersigned by the county judge of each county *or portion of a county* situated within the road district. No such warrant may be issued except in payment of certified accounts approved by the *ex officio directors* [~~commissioners court of each county~~].

"Section 4.475. TREASURER OR DEPOSITORY OF DISTRICT. The treasurer or depository of the district shall be any bank, banking corporation, or individual banker resident in the district. The treasurer or depository shall be selected by the commissioners courts of the counties *or portions of counties* included within the district at joint meetings held for that purpose in the county having the largest number of inhabitants. The treasurer or depository shall be governed by the same laws and shall be subject to the same penalties as are provided by law for depositories of county funds. Before the treasurer or depository is entitled to receive any funds of the district, it must give a surety bond to the district, with a corporate surety that is authorized to do business in the state, in an amount equal to the funds so deposited and conditioned on the safekeeping of the funds and paying of the funds.

"Section 4.476. CHANGE OF ROADS. (a) The commissioners court of the county may change any road or roads designated in the petition to create the road district if it is found at the hearing on the petition that the change is necessary and practicable, would be a public benefit, and would be beneficial to all taxable property in the county.

“(b) This part does not require any commissioners court to grant a petition for the establishment of the road district if at the hearing provided in this part it is found that it would not be beneficial to the taxable property in the county to include the county *or portion of a county* within the proposed road district.”

SECTION 2. 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 the Senate on May 9, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 24, 1985, by the following vote: Yeas 145, Nays 3, one present not voting.

Approved: June 14, 1985

Effective: Immediately