

CHAPTER 370

H.B. No. 2460

AN ACT

relating to the exclusion of nonirrigated or nonirrigable property located within the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1.

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

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the Board of Directors of the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1.

(2) "District" means the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1.

SECTION 2. AUTHORITY TO EXCLUDE PROPERTY. The district may exclude property from the district if the board finds after notice and hearing that exclusion of the property is in the best interest of the district and that:

(1) the property is not irrigable with water purchased from the district because:

(A) the district cannot deliver water by gravity flow to a high point on the property to irrigate the property;

(B) the property is subdivided into tracts of less than 10 acres; or

(C) the property is subdivided into town lots, town lots and blocks, or similar small parcels of any size that will not be used for agricultural purposes or are suitable for a residential, a commercial, or another nonagricultural purpose; or

(2) the property has not been irrigated with water purchased from the district for a period of not less than three years before the date the notice for the hearing was mailed.

SECTION 3. HEARING ON PROPOSAL TO EXCLUDE PROPERTY; NOTICE. (a) If the board has information that property in the district is not irrigated or irrigable, the board may call and hold a hearing to determine whether to exclude the property.

(b) The board by certified mail, return receipt requested, not earlier than the 21st day or later than the 16th day before the date of the hearing shall issue written notice of the hearing to each owner of property in the area proposed to be excluded as shown on the current tax rolls of the district. The notice must:

- (1) describe the property proposed to be excluded;
- (2) describe the basis for the proposed exclusion;
- (3) state the time, date, and location of the hearing; and

(4) advise that an interested property owner has the right to appear at the hearing to offer evidence to contest the exclusion.

(c) The board shall publish notice of the hearing at least once a week for two consecutive weeks in a newspaper of general circulation in each county in which the property proposed to be excluded is located. The first notice must appear not earlier than the 40th day before or later than the 16th day before the date of the hearing. The notice must:

- (1) describe the property proposed to be excluded;
- (2) state the time, date, and location of the hearing; and

(3) advise that an interested property owner has the right to appear at the hearing and to offer evidence to contest the exclusion.

SECTION 4. SUIT TO REVIEW; APPEAL. An interested person may bring a suit to review an order of the board excluding property under this Act in the manner provided by Sections 51.698–51.700, Water Code, and may appeal as provided by Section 51.701, Water Code, and their subsequent amendments.

SECTION 5. NOTICE TO COMMISSION. The board shall furnish to the Texas Natural Resource Conservation Commission a copy of the order excluding the property not later than the 30th day after the date the board issues the order.

SECTION 6. CONSENT FROM HOLDERS OF INDEBTEDNESS. If the district has outstanding bonded indebtedness, or indebtedness under a loan from a governmental agency, a written consent from an authorized representative of the holder or holders of the indebtedness consenting to the exclusion shall be obtained and filed with the district before the hearing.

SECTION 7. RESULTS OF EXCLUSION ORDER. (a) Property excluded under this Act is not within the district and is not entitled to purchase water from or to receive any other service from the district.

(b) Taxes, assessments, or other charges on the excluded property that are owed to the district at the time the order of exclusion takes effect remain the obligation of the owner of the excluded property and continue to be secured by statutory liens on the property, if any.

(c) After property is excluded, the owner of the property has no further liability to the district for future taxes, assessments, or other charges of the district based on that property.

SECTION 8. RECORDATION. The district shall record, in the real property records of the county in which the excluded property is located, a copy of the order excluding the property from the district. The copy must be certified and acknowledged by the secretary of the board.

SECTION 9. DISTRICT FACILITIES AND EASEMENTS ON EXCLUDED PROPERTY. The order to exclude property does not affect or interfere with any rights that the district has to maintain and continue operation of any easements, canals, ditches, pipelines, pumps, or other facilities of the district that are located on excluded property for the purpose of servicing property remaining in the district.

SECTION 10. SUBSTITUTION FOR EXCLUDED PROPERTY. (a) At the sole discretion of the board, after the exclusion order is issued by the board, property may be added to the district if the property is:

- (1) practically irrigable with water purchased from the district; and
- (2) in the aggregate less than or equal to the acreage of property being excluded.

(b) Property may be added to the district under this Act only if the owner of the property files a petition requesting inclusion. If the owner already has acreage within the district, all

taxes and other assessments owed to the district by the owner must be current before the petition may be considered by the board.

SECTION 11. CUMULATIVE EFFECT. The rights, remedies, and powers conferred by this Act on the district are cumulative of all other rights, remedies, and powers otherwise available to the district under general law. This Act prevails over any conflict with the general law that applies to the district.

SECTION 12. TRANSITION PROVISION. The reference in Section 5 of this Act to the Texas Natural Resource Conservation Commission means the Texas Water Commission until the name of the Texas Water Commission is changed to the Texas Natural Resource Conservation Commission as provided by Section 1.085, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991.

SECTION 13. 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 April 23, 1993, by the following vote: Yeas 131, Nays 0, 2 present, not voting; passed by the Senate on May 19, 1993, by the following vote: Yeas 31, Nays 0.

Approved May 31, 1993.

Effective May 31, 1993.