

CHAPTER 600

H.B. No. 2571

AN ACT

relating to the designation and taxation of certain areas and property of municipal utility districts and to the boundaries of a certain flood control district.

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

SECTION 1. Chapter 54, Water Code, is amended by adding Subchapter J to read as follows:

**SUBCHAPTER J. SERVICES FOR CERTAIN DEFINED AREAS
AND DESIGNATED PROPERTY**

Sec. 54.801. AUTHORITY TO ESTABLISH DEFINED AREAS OR DESIGNATED PROPERTY. (a) A district that is composed of at least 1,500 acres may define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as a whole.

(b) The board shall state in its designation the physical and economic reasons, the particular diverse local needs, or the comparative potential benefits of the defined areas or designated property in the district that make it necessary or equitable to levy all or part of the tax on a defined area or designated property of the district.

Sec. 54.802. DEFINING AREA AND DESIGNATING PROPERTY TO BE BENEFITED BY IMPROVEMENTS. (a) The board shall adopt a proposed plan that defines the particular area to be taxed by metes and bounds or designates the property to be served, affected, and taxed.

(b) The board shall adopt a proposed plan for improvements in the defined area or to serve the designated property in the manner provided by Sections 54.506–54.507 of this code.

(c) The board shall adopt a proposed plan of taxation to apply to the defined area or designated property that may or may not be in addition to other taxes imposed by the district on the same area or property.

Sec. 54.803. NOTICE OF ADOPTION OF PLANS FOR DEFINED AREA OR DESIGNATED PROPERTY AND HEARING. (a) After proposed plans for a defined area or designated property are adopted, the board shall publish notice of the adoption once a week for two consecutive weeks in one or more newspapers with general circulation in the county or counties in which the district is located.

(b) The notice must state:

(1) that proposed plans for a defined area or designated property have been adopted;

(2) that a map and description of the area or property is available for public inspection in the district's office;

(3) that a hearing on the proposed plans will be held by the board at a specified place and at a particular time; and

(4) that all interested persons may appear and support or oppose all or part of the proposed plans and offer testimony.

(c) A hearing for which notice is required by this section must be held not less than 15 days and not more than 20 days after the date on which the first notice is published.

Sec. 54.804. ORDER ADOPTING PLANS FOR DEFINED AREA OR DESIGNATED PROPERTY. (a) After the hearing is completed, the board may approve the proposed plans for the defined area or designated property or may modify the proposed plans.

(b) If the board adopts a proposed plan, it must adopt the definition or designation that it finds, according to the evidence before the board, most equitably distributes the cost of facilities or service and protects the public welfare.

(c) If the proposal includes the issuance of bonds for the defined area or designated property, the board shall call and hold an election in the defined area or within the boundaries of the designated property only.

(d) The board's order is not subject to judicial review except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

Sec. 54.805. OBTAINING FUNDS TO CONSTRUCT, ADMINISTER, MAINTAIN, AND OPERATE IMPROVEMENTS AND FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On adoption of the plans as provided by Section 54.804 of this code and voter approval of the plans, the district, under the limitations of this subchapter, may apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property to provide money to construct, administer, maintain, and operate improvements and facilities that primarily benefit the defined area or designated property.

Sec. 54.806. PROCEDURE FOR ELECTION. (a) Before the adopted plans may become effective, they must be approved by the voters in the defined area or within the boundaries of the designated property. The election shall be conducted as provided by this chapter for an election to authorize the issuance of bonds.

(b) The board may submit the issues to the voters on the same ballot to be used in another election.

(c) The notice of election must describe the area to be defined or property to be designated and must otherwise conform to the provisions of this chapter relating to notice of bond elections.

Sec. 54.807. BALLOTS. The ballot for an election under this subchapter must be printed to provide for voting for or against substantially the proposition: "Defining the area or designating the property, issuing bonds, and levying a tax to retire the bonds."

Sec. 54.808. DECLARING RESULT AND ISSUING ORDER. (a) If a majority of the voters voting at the election approve the proposition, the board shall declare the results and, by order, shall establish the defined area and describe it by metes and bounds or designate the specific property and shall set the tax rate for the area or property as otherwise provided by the Tax Code.

(b) A certified copy of the order shall be recorded in the minutes of the district and shall constitute notice.

(c) If a majority of the voters voting at the election fail to approve the proposition, the board may not establish the defined area or designate the property.

Sec. 54.809. ISSUANCE OF BONDS AND LEVY OF TAX FOR DEFINED AREA OR DESIGNATED PROPERTY. After the order is recorded, the district may issue its bonds to provide the specific plant, works, and facilities included in the plans adopted for the defined area, or to serve the designated property and shall provide the plant, works, and facilities.

Sec. 54.810. LIMITATION ON OTHER BOND AUTHORIZATIONS. If the voters of the designated area authorize the issuance of bonds for a particular purpose, a district may not issue bonds from any other authorization for the same purposes, and only revenue and taxes from the designated area may be used to retire the bonds.

Sec. 54.811. PLEDGE OF FAITH AND CREDIT. If at an election, the voters approve the issuance of bonds and the levy of a tax that applies only to a designated area, the district may issue bonds that pledge only the faith and credit based on the property values in the defined area and may not pledge the full faith and credit of the district.

Sec. 54.812. NOTICE TO PURCHASERS. (a) A person who sells or conveys real property located within the designated area of the district shall supplement the notice to purchaser required by Section 50.301, of this code, as provided by this section.

(b) The prescribed notice shall be inserted into the general notice after the first sentence and shall read as follows: "The real property described below, which you are about to purchase, is also located within a designated area of the district and your land will be subject to a higher tax than other land within the district. Your rate of taxes will be higher by \$_____ on each \$100 of assessed valuation than land not within the designated area."

SECTION 2. Sections 1, 2, 3, 4, 6, 7, and 8, Chapter 1081, Acts of the 68th Legislature, Regular Session, 1983, are amended to read as follows:

Sec. 1. GENERAL PROVISIONS. (a) Pursuant to Article XVI, Section 59, of the Texas Constitution, a conservation and reclamation district designated as Dallas County Levee Improvement District No. 17 was established by the Commissioners Court of Dallas County and was converted to Dallas County Municipal Utility District No. 2 by order of the Texas Water Commission.

(b) The Dallas County Municipal Utility District No. 2 is renamed "Dallas County Flood Control District No. 1" and is declared to be a validly existing conservation and reclamation district.

(c) In this Act, "district" means the Dallas County Flood Control District No. 1.

(d) The district is declared to be a governmental agency and body politic and corporate and may exercise the powers, rights, privileges, and functions as provided by Article XVI, Section 59, of the Texas Constitution; Chapter 57, Water Code; and this Act. If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails.

(e) The district may construct and maintain levees and other improvements on, along, and contiguous to rivers, creeks, streams, and drainage courses for the purposes of:

- (1) reclaiming land from overflow from that water;*
- (2) controlling and distributing the water of rivers and streams by straightening and improving the rivers and streams;*
- (3) draining and improving the land; and*
- (4) preventing pollution of the water.*

(f) The district may build, construct, complete, carry out, maintain, protect, and, in case of necessity, add to and rebuild all works and improvements within its boundaries to accomplish any plan of reclamation adopted for or on behalf of the district. The district may enter into necessary contracts, employ necessary persons, and take any actions necessary to carry out this subsection.

(g) In addition to any other requirements, a reclamation plan adopted by the district after June 1, 1987, an amendment to a district reclamation plan adopted before or after June 1, 1987, or a project of the district that is not included in the district's reclamation plan must be approved by the city of Grand Prairie and the city of Irving before the plan of reclamation, amendment, or project takes effect.

~~*(h) The district may exercise the rights, powers, purposes, authority, and functions provided by Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article*~~

~~8280-477, Vernon's Texas Civil Statutes), but if any provision of that Act is in conflict or inconsistent with this Act, this Act prevails. The provisions of Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8280-477, Vernon's Texas Civil Statutes), that are not in conflict or inconsistent with this Act continue in effect.]~~

Sec. 2. BOUNDARIES. (a) On and after the effective date of this Act the district shall be designated as the Dallas County Flood Control District No. 1 of Dallas County, Texas. The district includes all property located within the redefined boundaries of the district as filed in the deed records of Dallas County, Texas, on the effective date of this Act. Those boundaries are validated.

(b) *Subject to the requirements of Subsection (d) of this section, the following real property is excluded from the district: Towne Lake Phase II Addition to the City of Irving Block 1, Lots 1 through 19; Block 2, Lots 1 through 6 and 9 through 69; Block 3, Lots 1 through 28; Towne Lake Phase III Addition to the City of Irving Block 1, Lots 1 through 8; Block 2, Lots 1 through 68; Block 3, Lots 1 through 38; Block 4, Lots 1 through 17; and Towne Lake Place Addition to the City of Irving, Block A, Lots 1 and 2. Effective July 1, 1987, the excluded property may not be subject to the levy of ad valorem taxes by the district and it shall be removed from the tax rolls of the district at that time.*

(c) *The legislature finds that the boundaries and field notes of the district form a closure. If any mistake is made in copying the field notes in the legislative process, or otherwise a mistake is made in the field notes, it in no way affects the organization, existence, and validity of the district; the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created, or to pay the principal of and interest on the bonds; the right of the district to assess, levy, and collect taxes; or the legal operation of the district or its governing body.*

(d) *Before the territory described in Subsection (b) of this section is disannexed from the district, the district must give written notice of the proposed disannexation by certified mail, return receipt requested, to the city manager of the city of Irving and the city manager of the city of Grand Prairie, and each city must approve the disannexation as provided by this subsection. Each city has a period of 30 days from the date notice is received by that city to either approve or disapprove the disannexation of the territory, and each city shall express its approval or disapproval through a resolution adopted by the city council of that city. If a city fails to adopt a resolution within the 30-day period as provided by this subsection, the disannexation is deemed approved by that city. If either of the cities disapproves the disannexation of the territory, the territory is not disannexed, but subsequent attempts to disannex the territory may be made and the territory may be disannexed in the manner provided by this subsection.*

Sec. 3. BOARD OF DIRECTORS; DISTRICT ADMINISTRATION. (a) *The powers of the district are exercised by a board of five directors. Each director serves for a term of two years, and until a successor is appointed and qualified. The city of Irving shall appoint three directors and the city of Grand Prairie shall appoint two directors.*

(b) *If a director dies, resigns, or ceases to possess the qualifications required for office, the board of directors shall declare the office vacant and the city that appointed the director whose position became vacant shall appoint a successor to fill the unexpired term.*

(c) *A director must own land within the district subject to taxation at the time of his qualification as a director, must take the constitutional oath of office, and shall execute a bond in the amount of \$5,000 for the faithful performance of his duties. The cost of the bond shall be paid by the district. The bond shall be approved by the board of directors and filed in the office of the county clerk of Dallas County.*

(d) *A majority of the members of the board of directors constitute a quorum for the transaction of business of the district, but no official action of the board is valid without the affirmative vote of a majority of the members of the board.*

(e) *The board of directors may designate one or more directors to execute on behalf of the district all contracts, construction or otherwise, sign checks, or handle any other matter entered into by the board as shown in the official minutes of the district.*

(f) *The board of directors shall organize and elect a president, vice-president, and secretary. The board may authorize the president to sign all orders or take other action.*

(g) *An order adopted or action taken at a meeting of the board of directors at which the president is absent may be signed by the vice-president, or the board may authorize the president to sign the order or action at a later time.*

(h) *The secretary of the board of directors is responsible for keeping accurate minutes and certifying any action taken by the board.*

(i) *Each member of the board of directors is entitled to receive \$25 for each day he spends on district work but may not receive an amount that exceeds \$200 in any calendar month. A director shall be reimbursed for actual expenses approved by the board.*

(j) *The board of directors shall hold regular and special meetings at the times and on the dates the board determines.*

(k) *The board of directors shall keep and maintain complete and accurate accounts and records. The board shall keep the records at the district's principal office and the records shall be open to public inspection at reasonable times [Each director serving at the time of the passage of this Act shall continue to serve for his elected term. The district's directors shall subsequently be elected, or appointed to fill an unexpired term, as the case may be, for the term of office, in the manner, and with the qualifications and official bond required by Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8280-477, Vernon's Texas Civil Statutes), except there shall be only five directors].*

Sec. 4. BONDS AND TAXES. (a) *The district may issue and sell all unissued bonds and may levy and collect an ad valorem tax on all taxable property in the district to pay the principal of and interest on the bonds, as authorized at an election held in the district on June 12, 1982.*

(b) *The district shall assume and be responsible for all outstanding indebtedness and existing contracts of its predecessor districts and may continue to levy and collect maintenance taxes previously authorized at an election held in the district.*

(c) *The district may issue bonds and incur other indebtedness in the manner provided by Section 10, Chapter 135, Acts of the 62nd Legislature, Regular Session, 1971.*

(d) *The district shall file with the city of Grand Prairie and the city of Irving notice of intent to issue bonds or other indebtedness not later than the 20th day before the date of issuance. The notice must state the purpose for which the bonds or other indebtedness are issued and the approximate principal amount of the bonds or indebtedness. Before the district issues bonds or other indebtedness in an amount of more than \$500,000, the district must obtain the approval of the city council of the city of Grand Prairie and the approval of the city council of the city of Irving. A city council may give its approval by resolution.*

(e) *Bonds or other indebtedness may not be sold at discount from the principal amount without the prior approval of the city of Grand Prairie and the city of Irving.*

(f) *This Act may not be construed as a lending or pledge of the credit of the city of Grand Prairie or the city of Irving to the bonds and other indebtedness of the district, and the city of Grand Prairie and the city of Irving are in no way obligated to pay any bonds, indebtedness, or other debt of the district.*

Sec. 6. BOND ANTICIPATION NOTES. (a) *In addition to all other methods of acquiring funds for district purposes, the district may issue bond anticipation notes for any purpose for which bonds have been voted or may be issued to refund outstanding bond anticipation notes and the interest on the notes being refunded.*

(b) Notes issued under this section may bear interest at any rate not to exceed the maximum interest rate applicable to the district's authorized bonds, and shall mature within one year of the date they are issued.

(c) The maximum amount of notes issued under this section outstanding at any one time may not exceed \$500,000 unless the district obtains the prior consent of the *cities* [city] of *Grand Prairie and Irving* [—Texas].

(d) Notes issued under this section shall be paid only from the proceeds of the sale of bonds by the district.

Sec. 7. **PROHIBITED FUNCTIONS.** The district is expressly prohibited from engaging in any *park, water service, wastewater service, police, or fire-fighting functions* or spending any district funds or issuing bonds for those purposes.

Sec. 8. **PUBLIC BENEFIT.** *The legislature finds that the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district and by the powers granted pursuant to Article XVI, Section 59, of the Texas Constitution, and that the district was created to serve a public use and benefit* [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*].

SECTION 3. Chapter 1081, Acts of the 68th Legislature, Regular Session, 1983, is amended by adding Sections 9, 10, 11, 12, 13, 14, and 15 to read as follows:

Sec. 9. **EMINENT DOMAIN.** (a) *The district may exercise the power of eminent domain within Dallas County, Texas, to enable it to acquire the fee simple title, easement, or right-of-way to, over, and through any and all land, water, or land under water, except land and property used for cemetery purposes, inside, bordering on, adjacent or opposite to, or outside the district that has a direct effect on the accomplishment of the purposes for which the district is created and that is necessary for making, constructing, and maintaining all levees and other improvements for the improvement of rivers, creeks, streams, or drainage courses inside or bordering on the district and to prevent overflows.*

(b) *The power of eminent domain must be exercised by the district in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit to which it is a party and is not required to deposit double the amount of any award in any suit.*

(c) *If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, change in grade, or alteration of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, change in grade, or alteration of construction shall be accomplished at the sole expense of the district, unless the owner of the facility relocated or altered has an existing legal obligation to pay the expenses. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, change in grade, or alteration of construction, to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.*

(d) *In addition to any other requirements, the district may not exercise the power of eminent domain without the prior approval by resolution of the city council of Grand Prairie if the property to be condemned is within the city limits of Grand Prairie or the city council of Irving if the property to be condemned is within the city limits of Irving.*

Sec. 10. **CONTRACTS.** *The district may enter into contracts with the United States or any of its agencies, with the city of Grand Prairie, with the city of Irving, or with individuals, corporations, public bodies, or any other entity for the maintenance of or construction of any facility or improvement authorized by this Act without the*

necessity of bonds being voted, and an election is not required of the district to approve the contracts.

Sec. 11. DEPOSITORY. (a) The board of directors shall designate one or more banks to serve as depository for district funds.

(b) District funds, other than those transmitted to a bank of payment for bonds issued by the district, shall be deposited as received in the depository.

(c) If district funds are deposited in a depository not insured by the Federal Deposit Insurance Corporation, the funds must be secured in the manner provided by law for the security of county funds.

(d) The board of directors may appoint a district treasurer. The person appointed as treasurer shall execute a bond in an amount determined by the board, payable to the district conditioned on the faithful performance of the treasurer's duties.

Sec. 12. DISTRICT OFFICE. The board of directors shall establish and maintain a district office in the district. The district may establish a second district office outside the district. Either or both district offices may be a private residence, office, or dwelling, and the private residence, office, or dwelling is declared a public place for matters pertaining to the district's business.

Sec. 13. ANNEXATION. The district may annex property to the district in the manner provided by Sections 54.711 through 54.727, Water Code. Before the annexation of land to the district, the district must obtain the approval of the city of Grand Prairie if the land to be annexed is within the city limits of Grand Prairie, or the city of Irving if the land to be annexed is within the city limits of Irving.

Sec. 14. LEGISLATIVE DECLARATION. The legislature declares the creation and operation of the district to be essential to accomplish the purpose of Article XVI, Section 59(d), of the Texas Constitution.

Sec. 15. ROADWAY AND UTILITY CONSTRUCTION. Any road, street, or utility construction of the district begun on or after the effective date of this section within the city limits of the city of Grand Prairie or within the city limits of the city of Irving must comply with standards for construction adopted by that city.

SECTION 4. (a) The two directors of the Dallas County Flood Control District No. 1 elected on April 4, 1987, serve until two directors are appointed to and have qualified for those positions. One director shall be appointed by the city of Grand Prairie and one director shall be appointed by the city of Irving. The appointments may not be made before the date the United States Department of Justice indicates that no objections will be interposed under the federal Voting Rights Act (42 U.S.C. Sections 1971 et seq., 1973), but must be made within 15 days after that date.

(b) The three directors serving on the effective date of this Act who have terms of office that expire in April 1988 shall continue in office and serve for the terms for which they were elected and until their successors are appointed and have qualified for office. The successors to those directors shall be appointed to take office on April 3, 1988, with one director being appointed by the city of Grand Prairie and two directors being appointed by the city of Irving.

SECTION 5. Not later than the 10th day after the effective date of this Act, the Dallas County Flood Control District No. 1 shall mail the notice of proposed disannexation in accordance with Section 2(d), Chapter 1081, Acts of the 68th Legislature, Regular Session, 1983.

SECTION 6. (a) All resolutions, orders, and other acts or attempted acts of the board of directors of the Dallas County Flood Control District No. 1, together with all annexations by the district and annexation elections, and all proceedings of the district, authorizing the issuance of bonds of the district, including voted but unissued bonds of the district, bond elections, and the bond taxes voted for those bonds, and all contracts, including contracts entered into by the district, passed or made before the effective date of this Act are validated in all respects. All the resolutions, orders, and other acts or attempted acts of the board of directors of the district, annexations, all proceedings of the district, the district's bonds, bond elections, bond taxes, pledged revenues, and contracts

shall be valid as though they had originally been duly and legally authorized or accomplished.

(b) This section does not apply to or affect litigation now pending in any court of competent jurisdiction in this state to which the district is a party.

SECTION 7. 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 15, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2571 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 29, 1987, by the following vote: Yeas 28, Nays 0.

Approved June 18, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.
