CHAPTER 90

S.B. No. 611

AN ACT

relating to the irrigation powers and functions of certain water districts; providing authority for a district by rule to change fees; clarifying a district's authority to impose certain assessments.

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

SECTION 1. Subchapter C, Chapter 51, Water Code, is amended by adding Section 51.091 to read as follows:

Sec. 51.091. PROJECTS OF CERTAIN DISTRICTS. (a) In this section, "preservation district" means a district defined by Chapter 54 and created by special law with the power to promote the preservation of fish and other wildlife within its boundaries.

(b) A water supply project financed, in whole or in part, with water development bonds, as defined under Section 16.001, that is undertaken by a district having operations or facilities located in not less than four counties, and that is included in a regional water plan under Section 16.053, is of fundamental and paramount importance and is to be given priority over the activities, rules, regulations, ordinances, or any requirement for a permit, bond, or fee of a preservation district, which shall be inapplicable to the construction of the project.

(c) Governmental immunity of a preservation district is waived in an action brought by a district described in Subsection (b) for the acquisition of land, easements, or other property for a project described in Subsection (b), if the preservation district is the owner of the land or property.

(d) Notwithstanding any other law, venue shall lie in Travis County for an action described in Subsection (c) and brought by a district described in Subsection (b).

(e) This section expires September 1, 2039.

SECTION 2. Subsection (a), Section 51.301, Water Code, is amended to read as follows:

(a) If required by the board, each person who desires to receive irrigation water at any time during the year shall furnish the secretary of the board a written statement of the acreage the person intends to irrigate and the different crops the person intends to plant with the acreage of each crop.

SECTION 3. Section 51.302, Water Code, is amended to read as follows:

Sec. 51.302. CONTRACTS WITH PERSON USING IRRIGATION WATER. (a) The board may require each person who desires to use irrigation water during the year to enter into a contract with the district which states the acreage to be irrigated, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) If a person irrigates more acreage than the person's contract specifies, the person shall pay for the additional service.

(c) The directors also may require a person using irrigation water to execute a negotiable note or notes for all or part of the amount owed under the contract.

(d) The contract is not a waiver of the lien given to the district under Section 51.309 against the crops of a person using irrigation water for the service furnished to the person.

SECTION 4. Section 51.303, Water Code, is amended to read as follows:

Sec. 51.303. AUTHORITY TO DETERMINE RULES AND REGULATIONS. The board may adopt, alter, and rescind rules, regulations, and standing and temporary orders which do not conflict with the provisions of this subchapter and which govern:

(1) methods, terms, and conditions of water service;

(2) applications for water;

(3) assessments, charges, fees, rentals, or deposits for maintenance and operation;

(4) payment and the enforcement of payment of the assessments, charges, fees, rentals, or deposits;
(5) furnishing irrigation water to persons who did not apply for it before the date of assessment if required; and

(6) furnishing water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications if required.

SECTION 5. Section 51.304, Water Code, is amended to read as follows:

Sec. 51.304. BOARD’S ESTIMATE OF MAINTENANCE AND OPERATING EXPENSES. The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the district’s water delivery [irrigation] system for the next 12 months. The board may change the 12-month period for which it estimates the expenses of maintaining and operating the water delivery [irrigation] system by estimating such expenses for a shorter period so as to adjust to a new fixed date and thereafter estimating the expenses for 12-month periods following the adjusted fixed date.

SECTION 6. Section 51.305, Water Code, is amended to read as follows:

Sec. 51.305. DISTRIBUTION OF ASSESSMENT. (a) The board by order shall allocate a portion [Not less than one third nor more than two thirds] of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery [irrigation] system or through an extension of its water delivery [irrigation] system. This assessment shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) [The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.] The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district.

(c) The remainder of the estimated expenses shall be paid by assessments, charges, fees, rentals, or deposits required of [against] persons in the district who use or who make application to use water. The board shall prorate the remainder [as equitably as possible] among the applicants for irrigation water and may consider:

(1) the acreage each applicant will plant, the crop the applicant [he] will grow, and the amount of water per acre used for irrigation purposes; and

(2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses [he will use].

(d) A landowner of irrigable land in the district or a user of water delivered by the district for any purpose other than irrigation who disputes all or a part of a board order that determines the amount of an assessment, charge, fee, rental, or deposit may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or user of water described by this subsection.

SECTION 7. Section 51.306, Water Code, is amended to read as follows:

Sec. 51.306. NOTICE OF ASSESSMENTS. (a) Public notice of all assessments imposed under Section 51.305(a) shall be given by posting printed notice [notices] of the assessment in at least one [three] public place [places] in the district.

(b) Not later than the fifth day before the date on which the assessment is due, notice [Notice] shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) Notice [The notice shall be posted in a public place and mailed to each landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied.

SECTION 8. Subsection (a), Section 51.307, Water Code, is amended to read as follows:

(a) All assessments imposed under Section 51.305(a) shall be paid in installments at the times fixed by the board.

SECTION 9. Subsections (a), (b), and (c), Section 51.308, Water Code, are amended to read as follows:
(a) Under the direction of the board, the assessor and collector, or other person designated by the board, shall collect all assessments imposed under Section 51.305(a) for maintenance and operating expenses.

(b) The assessor and collector shall execute a bond in an amount determined by the board, conditioned on the faithful performance of the duties of the assessor and collector and accounting for all money collected.

(c) The assessor and collector shall keep an account of all money collected and shall deposit the money as collected in the district depository. The assessor and collector shall file with the secretary of the board a statement of all money collected once each month.

SECTION 10. Section 51.309, Water Code, is amended to read as follows:

Sec. 51.309. LIEN AGAINST CROPS. (a) The district shall have a first lien, superior to all other liens, against all crops grown on a tract of land in the district to secure the payment of an assessment imposed against the tract under Section 51.305(a), interest, and collection or attorney’s fees.

(b) If the crops against which the district has a lien under this section are cultivated on a basis other than annual replanting, the owner of the crops shall record with the county clerk of the county where the land on which the crops are cultivated is located a legally sufficient description of the land, including a metes and bounds description or a plat reference.

SECTION 11. Section 51.310, Water Code, is amended to read as follows:

Sec. 51.310. LIST OF DELINQUENT ASSESSMENTS. Assessments imposed under Section 51.305(a) not paid when due shall become delinquent on the first day of the month following the date payment is due, and the board shall keep posted in a public place in the district a correct list of all persons who are delinquent in paying assessments. If a person who owes an assessment has executed a note and contract as provided in Section 51.302, he shall not be placed on the delinquent list until after the maturity of the note and contract.

SECTION 12. Section 51.311, Water Code, is amended to read as follows:

Sec. 51.311. WATER SERVICE DISCONTINUED. (a) If a landowner fails or refuses to pay a water assessment or a person fails to pay a charge, fee, rental, or deposit imposed under this chapter or Chapter 49 when due, the landowner’s water supply shall be cut off, and no water may be furnished to the land until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land for which assessments or other amounts owed to the district are due.

(b) A landowner or person whose water service has been discontinued under Subsection (a) may request that the board reconsider the discontinuance related to a charge, fee, rental, deposit, or penalty, and may not request that the board reconsider a discontinuance related to an assessment. If the board declines to reconsider the discontinuance, the landowner or person may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or person described by this subsection.

SECTION 13. Section 51.312, Water Code, is amended to read as follows:

Sec. 51.312. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent water assessments or other amounts owed to the district under this chapter may be brought either in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments imposed under Section 51.305(a) [provided in this subchapter].

SECTION 14. Subsection (a), Section 51.313, Water Code, is amended to read as follows:

(a) All assessments imposed under Section 51.305(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day of the month following the date payment is due are delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

SECTION 15. Section 55.351, Water Code, is amended to read as follows:
Sec. 55.351. STATEMENT ESTIMATING WATER REQUIREMENTS AND PAYMENT OF CHARGE. (a) If required by the board, each person desiring to receive irrigation water at any time during the year shall furnish the secretary of the board a written statement of the acreage the person intends to irrigate and the different crops the person intends to plant with the acreage of each crop.

(b) At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board for immediate payment.

(c) If a person applying for water from the district does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year.

SECTION 16. Section 55.352, Water Code, is amended to read as follows:

Sec. 55.352. BOARD'S ESTIMATE OF MAINTENANCE AND OPERATING EXPENSES. The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the district's water delivery system for the next 12 months. The board may change the 12-month period for which it estimates the expenses of maintaining and operating the water delivery system by estimating such expenses for a shorter period so as to adjust to a new fixed date and thereafter estimating the expenses for 12-month periods following the adjusted fixed date.

SECTION 17. Section 55.354, Water Code, is amended to read as follows:

Sec. 55.354. DISTRIBUTION OF ASSESSMENT. (a) The board by order shall allocate a portion of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery system or through an extension of its water delivery system. This assessment shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district under this subsection.

(c) The remainder of the estimated expenses shall be paid by assessments, charges, fees, rentals, or deposits required of persons in the district who use or who make application to use water and other charges approved by the board. The board shall prorate the remainder among the applicants for irrigation water and may consider:

(1) the acreage each applicant will plant, the crop the applicant will grow, and the amount of water per acre used for irrigation purposes; and

(2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses.

(d) All persons using irrigation water to plant the same crop will pay the same price per acre for the water.

(e) A landowner of irrigable land in the district or a user of water delivered by the district for any purpose other than irrigation who disputes all or a part of a board order that determines the amount of an assessment, charge, fee, rental, or deposit may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or user of water described by this subsection.

SECTION 18. Section 55.355, Water Code, is amended to read as follows:

Sec. 55.355. NOTICE OF ASSESSMENTS. (a) Public notice of all assessments imposed under Section 55.354(a) shall be given by posting printed notices of the assessment in at least one public place in the district.
(b) Not later than the fifth day before the date on which the assessment is due, notice [Printed notices] shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) Notice [The notice shall be posted in a public place and mailed to the landowner five days before the assessment is due, and notice] of special assessments shall be given within 10 days after the assessment is levied.

SECTION 19. Section 55.356, Water Code, is amended to read as follows:

Sec. 55.356. PAYMENT OF ASSESSMENTS. (a) All assessments imposed under Section 55.354(a) shall be paid in installments at the times fixed by the board.

(b) If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown.

SECTION 20. Section 55.357, Water Code, is amended to read as follows:

Sec. 55.357. COLLECTION OF ASSESSMENTS BY TAX ASSessor AND COLLECTOR. (a) Under the direction of the board, the assessor and collector of taxes, or other person designated by the board, shall collect all assessments imposed under Section 55.354(a) for maintenance and operating expenses made under the provisions of this subchapter.

(b) The assessor and collector of taxes shall give bond in an amount determined by the board, conditioned upon the faithful performance of the duties of the assessor and collector and accounting for all money collected.

(c) The assessor and collector of taxes shall keep an account of all money collected and shall deposit the money as collected in the district depository. The assessor and collector shall file with the secretary of the board a statement of all money collected once each month.

(d) The assessor and collector shall use duplicate receipt books, give a receipt for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district.

SECTION 21. Section 55.358, Water Code, is amended to read as follows:

Sec. 55.358. CONTRACTS WITH PERSON USING IRRIGATION WATER. (a) The board may require each person who desires to use irrigation water during the year to enter into a contract with the district which states the acreage to be irrigated, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) The contract is not a waiver of the lien given to the district under Section 55.359 of this code against the crops of a person using irrigation water for the service furnished to the person.

(c) If a person irrigates more acreage than the person's contract specifies, the person shall pay for the additional service under the provisions of this subchapter.

(d) The directors also may require a person using irrigation water to execute a negotiable note or notes for all or part of the amount owed under the contract.

SECTION 22. Section 55.359, Water Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The district shall have a first lien, superior to all other liens, against all crops grown on a tract of land in the district to secure the payment of an assessment imposed against the tract under Section 55.354(a) [the assessments], interest, and collection or attorney's fees.

(c) If the crops against which the district has a lien under this section are cultivated on a basis other than annual replanting, the owner of the crops shall record with the county clerk of the county where the land on which the crops are cultivated is located a legally sufficient description of the land, including a metes and bounds description or a plat reference.

SECTION 23. Section 55.360, Water Code, is amended to read as follows:

Sec. 55.360. LIST OF DELINQUENT ASSESSMENTS. Assessments imposed under Section 55.354(a) not paid when due shall become delinquent on the first day of the month following the date payment is due, and the board shall [post in a public place in the district a
list of all persons who are delinquent in paying their assessments and shall keep posted in a public place in the district a correct list of all delinquent assessments. If a person who owes an assessment has executed a note and contract as provided in Section 55.358, the person may not be placed on the delinquent list until after the maturity of the note and contract.

SECTION 24. Section 55.361, Water Code, is amended to read as follows:

Sec. 55.361. WATER SERVICE DISCONTINUED. (a) If a landowner fails or refuses to pay any water assessment or a person fails to pay a charge, fee, rental, deposit imposed under this chapter or Chapter 49 when due, the landowner's or person's water supply shall be cut off, and no water shall be furnished to the land until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire any interest in land for which assessments or other amounts owed to the district are due.

(b) A landowner or person whose water service has been discontinued under Subsection (a) may request that the board reconsider the discontinuance related to a charge, fee, rental, deposit, or penalty, and may not request that the board reconsider a discontinuance related to an assessment. If the board declines to reconsider the discontinuance, the landowner or person may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or person described by this subsection.

SECTION 25. Section 55.362, Water Code, is amended to read as follows:

Sec. 55.362. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent assessments or other amounts owed to the district under this subchapter may be brought in the county in which the irrigation district is located or in the county in which the defendant resides. All landowners are personally liable for all assessments imposed under Section 55.354(a).

SECTION 26. Subsection (a), Section 55.363, Water Code, is amended to read as follows:

(a) All assessments imposed under Section 55.354(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day of the month following the date payment is due shall become delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

SECTION 27. Subsection (a), Section 58.301, Water Code, is amended to read as follows:

(a) If required by the board, each person who desires to receive irrigation water at any time during the year shall furnish the secretary of the board a written statement of the acreage the person intends to irrigate and the different crops the person intends to plant with the acreage of each crop.

(b) The directors also may require a person using irrigation water to execute a negotiable note or notes for all or part of the amount owed under the contract.

(c) The contract is not a waiver of the lien given to the district under Section 58.309 against the crops of a person using irrigation water for the service furnished to the person.

SECTION 28. Section 58.302, Water Code, is amended to read as follows:

Sec. 58.302. CONTRACTS WITH PERSON USING IRRIGATION WATER. (a) The board may require each person who desires to use irrigation water during the year to enter into a contract with the district which states the acreage to be irrigated, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) If a person irrigates more acreage than the person's contract specifies, the person shall pay for the additional service.

(c) The directors also may require a person using irrigation water to execute a negotiable note or notes for all or part of the amount owed under the contract.

(d) The contract is not a waiver of the lien given to the district under Section 58.309 against the crops of a person using irrigation water for the service furnished to the person.

SECTION 29. Section 58.303, Water Code, is amended to read as follows:

Sec. 58.303. AUTHORITY TO DETERMINE RULES AND REGULATIONS. The board may adopt, alter, and rescind rules, and standing and temporary orders which do not conflict with the provisions of this subchapter and which govern:

(1) methods, terms, and conditions of water service;

(2) applications for water;
(3) assessments, charges, fees, rentals, or deposits for maintenance and operation;

(4) payment and the enforcement of payment of the assessments, charges, fees, rentals, or deposits;

(5) furnishing irrigation water to persons who did not apply for it before the date of assessment if required; and

(6) furnishing water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications if required.

SECTION 30. Section 58.304, Water Code, is amended to read as follows:

Sec. 58.304. BOARD’S ESTIMATE OF MAINTENANCE AND OPERATING EXPENSES. The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the district’s water delivery irrigation system for the next 12 months. The board may change the 12-month period for which it estimates the expenses of maintaining and operating the water delivery [irrigation] system by estimating such expenses for a shorter period so as to adjust to a new fixed date and thereafter estimating the expenses for 12-month periods following the adjusted fixed date.

SECTION 31. Section 58.305, Water Code, is amended to read as follows:

Sec. 58.305. DISTRIBUTION OF ASSESSMENT. (a) The board by order shall allocate a portion [not less than one-third nor more than two-thirds] of the estimated maintenance and operating expenses that shall be paid by assessment against all land in the district to which the district can furnish irrigation water through its water delivery [irrigation] system or through an extension of its water delivery [irrigation] system. This assessment shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated.

(b) The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine from year to year the proportionate amount of the expenses which will be borne by all water users receiving water delivery from the district.

(c) The remainder of the estimated expenses shall be paid by charges, fees, rentals, or deposits required of persons in the district who use or who make application to use water and other charges approved by the board. The board shall prorate the remainder [as equitably as possible] among the applicants for irrigation water and may consider:

(1) the acreage each applicant will plant, the crop the applicant [he] will grow, and the amount of water per acre used for irrigation purposes; and

(2) other factors deemed appropriate by the board with respect to water used for other nonirrigation uses [he will use].

(d) A landowner of irrigable land in the district or a user of water delivered by the district for any purpose other than irrigation who disputes all or a part of a board order that determines the amount of an assessment, charge, fee, rental, or deposit may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or user of water described by this subsection.

SECTION 32. Section 58.306, Water Code, is amended to read as follows:

Sec. 58.306. NOTICE OF ASSESSMENTS. (a) Public notice of all assessments imposed under Section 58.305(a) shall be given by posting printed notice [notices] of the assessment in at least one [three] public place [places] in the district.

(b) Not later than the fifth day before the date on which the assessment is due, notice [Notices] shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) Notice [The notice shall be posted in a public place and mailed to each landowner five days before the assessment is due, and notice] of special assessments shall be given within 10 days after the assessment is levied.

SECTION 33. Subsection (a), Section 58.307, Water Code, is amended to read as follows:
(a) All assessments imposed under Section 58.305(a) shall be paid in installments at the times fixed by the board. 

SECTION 34. Subsections (a), (b), and (c), Section 58.308, Water Code, are amended to read as follows:

(a) Under the direction of the board, the assessor and collector, or other person designated by the board, shall collect all assessments imposed under Section 58.305(a) for maintenance and operating expenses.

(b) The assessor and collector shall execute a bond in an amount determined by the board, conditioned on the faithful performance of the duties of the assessor and collector and accounting for all money collected.

(c) The assessor and collector shall keep an account of all money collected and shall deposit the money as collected in the district depository. The assessor and collector shall file with the secretary of the board a statement of all money collected once each month.

SECTION 35. Section 58.309, Water Code, is amended to read as follows:

Sec. 58.309. LIEN AGAINST CROPS. (a) The district shall have a first lien, superior to all other liens, against all crops grown on a tract of land in the district to secure the payment of an assessment imposed against the tract under Section 58.305(a), interest, and collection or attorney's fees.

(b) If the crops against which the district has a lien under this section are cultivated on a basis other than annual replanting, the owner of the crops shall record with the county clerk of the county where the land on which the crops are cultivated is located a legally sufficient description of the land, including a metes and bounds description or a plat reference.

SECTION 36. Section 58.310, Water Code, is amended to read as follows:

Sec. 58.310. LIST OF DELINQUENT ASSESSMENTS. Assessments imposed under Section 58.305(a) not paid when due shall become delinquent on the first day of the month following the date payment is due, and the board shall keep posted in a public place in the district a correct list of all persons who are delinquent in paying assessments. If a person who owes an assessment has executed a note and contract as provided in Section 58.302, the person may not be placed on the delinquent list until after the maturity of the note and contract.

SECTION 37. Section 58.311, Water Code, is amended to read as follows:

Sec. 58.311. WATER SERVICE DISCONTINUED. (a) If a landowner fails or refuses to pay a water assessment or a person fails to pay a charge, fee, rental, or deposit imposed under this chapter or Chapter 49 when due, the landowner's or person's water supply shall be cut off, and no water may be furnished to the land until all back assessments or other amounts owed to the district are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land for which assessments or other amounts owed to the district are due.

(b) A landowner or person whose water service has been discontinued under Subsection (a) may request that the board reconsider the discontinuance related to a charge, fee, rental, deposit, or penalty, and may not request that the board reconsider a discontinuance related to an assessment. If the board declines to reconsider the discontinuance, the landowner or person may file a petition under Section 11.041. That petition filed with the commission is the sole remedy available to a landowner or person described by this subsection.

SECTION 38. Section 58.312, Water Code, is amended to read as follows:

Sec. 58.312. SUITS FOR DELINQUENT ASSESSMENTS. Suits for delinquent water assessments or other amounts owed to the district under this subchapter may be brought in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments imposed under Section 58.305(a) provided in this subchapter.

SECTION 39. Subsection (a), Section 58.313, Water Code, is amended to read as follows:

(a) All assessments imposed under Section 58.305(a) shall bear interest from the date payment is due at the rate of 15 percent a year. Assessments not paid by the first day of the
month following the date payment is due are [shall become] delinquent, and a penalty of up to 15 percent of the amount of the past-due assessment shall be added to the amount due.

SECTION 40. Section 58.137, Water Code, is repealed.

SECTION 41. A district whose fiscal year begins on a date other than September 1 is not required to comply with the changes in law made by this Act that apply to the district until the beginning of the district's next fiscal year following the effective date of this Act.

SECTION 42. This Act takes effect September 1, 2013.

Passed the Senate on April 8, 2013: Yeas 31, Nays 0; the Senate concurred in House amendments on May 8, 2013: Yeas 30, Nays 0; passed the House, with amendments, on May 2, 2013: Yeas 147, Nays 0, two present not voting.

Approved May 18, 2013.

Effective September 1, 2013.

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CHAPTER 91

S.B. No. 649

AN ACT relating to the exemption of certain property from seizure by creditors.

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

SECTION 1. Section 1108.052, Insurance Code, is amended to read as follows:

Sec. 1108.052. EXEMPTIONS UNAFFECTED BY BENEFICIARY DESIGNATION. The exemptions provided by Section 1108.051 apply regardless of whether:

(1) the power to change the beneficiary is reserved to the insured; or

(2) the insured or the insured's estate is a [contingent] beneficiary.

SECTION 2. Subsections (a) and (b), Section 42.0021, Property Code, are amended to read as follows:

(a) In addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments, whether vested or not, under any stock bonus, pension, annuity, deferred compensation, profit-sharing, or similar plan, including a retirement plan for self-employed individuals, or a simplified employee pension plan, an individual retirement account or individual retirement annuity, including an inherited individual retirement account, Roth IRA, or inherited Roth IRA, or a health savings account, and under any annuity or similar contract purchased with assets distributed from that type of plan or account, is exempt from attachment, execution, and seizure for the satisfaction of debts to the extent the plan, contract, annuity, or account is exempt from federal income tax, or to the extent federal income tax on the person's interest is deferred until actual payment of benefits to the person under Section 223, 401(a), 403(a), 403(b), 408(a), 408A, 457(b), or 501(a), Internal Revenue Code of 1986, including a government plan or church plan described by Section 414(d) or (e), Internal Revenue Code of 1986. For purposes of this subsection, the interest of a person in a plan, annuity, account, or contract acquired by reason of the death of another person, whether as an owner, participant, beneficiary, survivor, coannuitant, heir, or legatee, is exempt to the same extent that the interest of the person from whom the plan, annuity, account, or contract was acquired was exempt on the date of the person's death. If this subsection is held invalid or preempted by federal law in whole or in part or in certain circumstances, the subsection remains in effect in all other respects to the maximum extent permitted by law.

(b) Contributions to an individual retirement account, other than contributions to a Roth IRA described in Section 408A, Internal Revenue Code of 1986, or an annuity that exceed the amounts permitted [deductible] under the applicable provisions of the Internal Revenue Code of 1986 and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law. Amounts qualifying as nontaxable rollover contribu-