

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 1324  
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Natural Resources  
5/14/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The property of some landowners is located within the boundaries of a water district where the district does not provide the land with water service. The landowners may contend that it is unfair to be subject to district taxation while not receiving district services.

C.S.H.B. 1324 amends current law relating to exclusion of land from certain water districts that fail to provide service to the land, clarifies and limits the authority of those districts with outstanding bonds payable from ad valorem taxes to impose taxes on excluded land, and provides for a financial review.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 49.3076, Water Code, by amending Subsections (a), (b), (c), (d), and (f) and adding Subsections (c-1) and (g-1), as follows:

(a) Requires the board of a district that has a total area of more than 10,000, rather than 5,000, acres to call a hearing on the exclusion of land from the district on or before the 60th day after receiving a written petition filed with the secretary of the board by one or more owners of land more than half the acreage of which has been for more than 20 years included in and taxable by the district, rather than on the exclusion of land from the district on a written petition filed with the secretary of the board by a landowner whose land has been included in and taxable by the district for more than 28 years, if any bonds issued by the district payable in whole or in part from taxes of the district are outstanding and the petition is signed by the owners of a majority of the acreage proposed to be excluded, as reflected by the most recent certified tax roll of the district; includes a claim that the district does not provide the land with retail utility services; describes the property to be excluded; and provides facts necessary for the board to make the findings required by Subsection (b). Deletes existing text requiring that the petition be filed before August 31, 2007. Makes nonsubstantive changes.

(b) Requires, rather than authorizes, the board of a district to exclude land under this section under certain conditions, including if the district does not provide retail utility service to the land described by the petition, and the district has imposed a tax on more than half the acreage of the land for at least 20 years, rather than the district has imposed tax on the land for more than 28 years if the board calls a hearing under Subsection (a) or 40 years if the board calls a hearing under Subsection (a-1) (relating to requiring the board of a district that has a total area of more than 1,000 acres and not more than 5,000 acres to call a hearing on the exclusion of land from the district). Makes nonsubstantive changes.

(c) Requires the board, subject to Subsection (c-1), unless the district presents evidence at the hearing that conclusively demonstrates that the requirements and grounds for exclusion described by Subsection (a) have not been met, rather than Subsection (a) or (a-1), as appropriate, and Subsection (b) have not been met, to enter an order excluding the land from the district and to redefine in the order the boundaries of the district to embrace all land not excluded.

(c-1) Provides that, if on or before the date of the exclusion hearing required by Subsection (a) the district and the owner or owners enter into an agreement for utility service to the land proposed to be excluded, the district is not required to enter an order excluding the land from the district. Provides that an owner of all or part of the land is not required to enter into a utility agreement that as of the date of the petition:

(1) is not comparable economically or in the level of service provided to the land to the owner's current source of utility service, as may be determined by the owner; or

(2) does not include all utility services required to serve the land.

(d) Requires that a copy of an order excluding land and redefining the boundaries of the district be filed in the deed records of each county in which the district is located and with the Texas Natural Resource Conservation Commission (TNRCC).

(f) Authorizes the district, after any land is excluded under this section, to issue any unissued additional debt approved by the voters of the district before exclusion of the land under this section without holding a new election. Prohibits additional debt issued after land is excluded from the district from being payable from taxes levied against and does not create a lien against the taxable value of the excluded land.

(g-1) Provides that this section does not apply to a district whose primary activity is the wholesale supply of raw water and that has fewer than 500 retail customers or whose jurisdiction covers four counties and that was created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

SECTION 2. Amends Section 49.3077, Water Code, as follows:

Sec. 49.3077. TAX LIABILITY OF EXCLUDED LAND; BONDS OUTSTANDING.

(a) Defines, in this section, "adjusted gross value," "carry costs," "district debt," "excluded land," "excluded land payment," "excluded land's share of district debt," "exclusion date," and "termination date."

(b) Provides that excluded land that has been pledged as security for any outstanding debt of the district remains pledged for the excluded land's share of district debt until the excluded land payment is paid. Entitles a district to continue to levy and collect debt services taxes on the excluded land until the termination date at the same rate as those taxes are levied on the land remaining in the district. Provides that, from the exclusion date to the termination date, the excluded land remains in the district for the limited purpose of assessment and collection of such taxes. Provides that, after the termination date, the excluded land is excluded from the district for all purposes, and prohibits the district from levying any further tax on the excluded land.

(c) Requires the district to apply the taxes collected on the excluded land only to payment of the excluded land payment, which is required to be reduced by the amount of taxes collected.

(d) Entitles a person to pay to the district the excluded land payment, in whole or in part, at any time on or after the exclusion date by delivering payment to the

district tax assessor-collector. Provides that if partial payment is made, the payment is credited first against all carry costs due and owing, and any remainder is credited against the excluded land's share of district debt. Requires that the costs, after a partial payment, be calculated and assessed and collected only on the remaining excluded land's share of district debt. Deletes existing text providing that land excluded from a district under Section 49.3076 (Exclusion for Failure to Provide Sufficient Services; Bonds Outstanding) that is pledged as security for any outstanding debt of the district remains pledged for its pro rata share of the debt until final payment is made. Deletes existing text requiring the district to continue to levy and collect taxes on the excluded land at the same rate levied on land remaining in the district until the amount of taxes collected from the excluded land equals the land's pro rata share of the district's debt outstanding at the time land was excluded from the district.

Deletes existing Subsection (b) requiring the district to apply the taxes collected on the excluded land only to the payment of the excluded land's pro rata share of the debt.

Deletes existing Subsection (c) authorizing the owner of any part of the excluded land to pay in full the owner's share of the pro rata share of the district's debt outstanding at the time the land is excluded.

SECTION 3. Amends Subchapter J, Chapter 49, Water Code, by adding Section 49.3078, as follows:

Sec. 49.3078. PETITION FOR EXCLUSION: ADDITIONAL DUTIES. Requires a landowner who signs a petition for the exclusion of land that is filed with a district under Section 49.3076 to submit a copy of the petition to TNRCC. Requires the executive director of TNRCC (executive director), on receipt of a copy of a petition, to review the most recent financial information for the applicable district, including current debt requirements, debt service cash flow, and the proposed debt obligations, to confirm that an exclusion of land conducted in accordance with Sections 49.3076 and 49.3077 does not adversely affect the interests of district bondholders. Requires the executive director to notify the landowner and the district when the review is complete.

SECTION 4. Amends Sections 49.312(a) and (c), Water Code, as follows:

(a) Provides that, except as provided by Section 49.3077, upon issuance of an order excluding property, that property is no longer a part of the district and is not entitled to water service from the district.

(c) Provides that, except as provided by Section 49.3077, once land is excluded, the landowner has no further liability to the district for future taxes, assessments, or other charges of the district. Makes nonsubstantive changes.

SECTION 5. Repealer: Section 49.3076(a-1) (relating to the board of a district that is more than 1,000 acres and not more than 5,000 acres being required to call a hearing on the exclusion of land from the district), Water Code.

SECTION 6. Makes application of Section 49.3076, Water Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2013.