

1-1 By: Taylor S.B. No. 619  
1-2 (In the Senate - Filed February 18, 2013; February 25, 2013,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 May 3, 2013, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; May 3, 2013,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

1-8	Yea	Nay	Absent	PNV
1-9	Fraser	X		
1-10	Estes	X		
1-11	Deuell	X		
1-12	Duncan	X		
1-13	Ellis		X	
1-14	Eltife		X	
1-15	Hegar	X		
1-16	Hinojosa		X	
1-17	Nichols	X		
1-18	Seliger	X		
1-19	Uresti	X		

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 619 By: Estes

1-21 A BILL TO BE ENTITLED  
1-22 AN ACT

1-23 relating to exclusion of land from certain water districts that  
1-24 fail to provide service to the land; clarifying and limiting the  
1-25 authority of those districts with outstanding bonds payable from ad  
1-26 valorem taxes to impose taxes on excluded land; providing for a  
1-27 financial review.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Section 49.3076, Water Code, is amended by  
1-30 amending Subsections (a), (b), (c), (d), and (f) and adding  
1-31 Subsections (c-1) and (g-1) to read as follows:

1-32 (a) The board of a district that has a total area of more  
1-33 than 10,000 ~~[5,000]~~ acres shall call a hearing on the exclusion of  
1-34 land from the district on or before the 60th day after receiving a  
1-35 written petition filed with the secretary of the board by one or  
1-36 more owners of ~~[a landowner whose]~~ land more than half the acreage  
1-37 of which has been for more than 20 years included in and taxable by  
1-38 the district ~~[for more than 28 years]~~ if any bonds issued by the  
1-39 district payable in whole or in part from taxes of the district are  
1-40 outstanding and the petition:

1-41 (1) is ~~[includes a]~~ signed by ~~[petition evidencing the~~  
1-42 ~~consent of]~~ the owners of a majority of the acreage proposed to be  
1-43 excluded, as reflected by the most recent certified tax roll of the  
1-44 district;

1-45 (2) includes a claim that the district does ~~[has]~~ not  
1-46 provide ~~[provided]~~ the land with retail utility services;

1-47 (3) describes the property to be excluded; and

1-48 (4) provides facts necessary for the board to make the  
1-49 findings required by Subsection (b) ~~[, and~~  
1-50 ~~[(5) is filed before August 31, 2007].~~

1-51 (b) The board of a district shall [may] exclude land under  
1-52 this section if ~~[only on finding that]:~~

1-53 (1) the district does not provide ~~[has never provided]~~  
1-54 retail utility service ~~[services]~~ to the land described by the  
1-55 petition;

1-56 (2) the district has imposed a tax on more than half  
1-57 the acreage of the land for at least 20 years ~~[more than:~~

1-58 ~~[(A) 28 years if the board calls a hearing under~~  
1-59 ~~Subsection (a); or~~

1-60 ~~[(B) 40 years if the board calls a hearing under~~

2-1 ~~Subsection (a-1)]~~; and

2-2 (3) all taxes the district has levied and assessed  
2-3 against the land and all fees and assessments the district has  
2-4 imposed against the land or the owner that are due and payable on or  
2-5 before the date of the petition are fully paid.

2-6 (c) Subject to Subsection (c-1), unless ~~[Unless]~~ the  
2-7 district presents evidence at the hearing that conclusively  
2-8 demonstrates that the requirements and grounds for exclusion  
2-9 described by Subsection (a) ~~[or (a-1), as appropriate, and~~  
2-10 ~~Subsection (b)]~~ have not been met, the board shall enter an order  
2-11 excluding the land from the district and shall redefine in the order  
2-12 the boundaries of the district to embrace all land not excluded.

2-13 (c-1) If on or before the date of the exclusion hearing  
2-14 required by Subsection (a) the district and the owner or owners  
2-15 enter into an agreement for utility service to the land proposed to  
2-16 be excluded, the district is not required to enter an order  
2-17 excluding the land from the district. An owner of all or part of the  
2-18 land is not required to enter into a utility agreement that as of  
2-19 the date of the petition:

2-20 (1) is not comparable economically or in the level of  
2-21 service provided to the land to the owner's current source of  
2-22 utility service, as may be determined by the owner; or

2-23 (2) does not include all utility services required to  
2-24 serve the land.

2-25 (d) A copy of an order excluding land and redefining the  
2-26 boundaries of the district shall be filed in the deed records of  
2-27 each county in which the district is located and with the  
2-28 commission.

2-29 (f) After any land is excluded under this section, the  
2-30 district may issue any unissued additional debt approved by the  
2-31 voters of the district before exclusion of the land under this  
2-32 section without holding a new election. Additional debt issued  
2-33 after land is excluded from the district may not be payable from  
2-34 taxes levied against and does not create a lien against the taxable  
2-35 value of the excluded land.

2-36 (g-1) This section does not apply to a district:

2-37 (1) whose primary activity is the wholesale supply of  
2-38 raw water; and

2-39 (2) that has fewer than 500 retail customers.

2-40 SECTION 2. Section 49.3077, Water Code, is amended to read  
2-41 as follows:

2-42 Sec. 49.3077. TAX LIABILITY OF EXCLUDED LAND; BONDS  
2-43 OUTSTANDING. (a) In this section:

2-44 (1) "Adjusted gross value" means the gross assessed  
2-45 value of property, as of January 1, including land, improvements,  
2-46 and personal property, as determined by the appraisal district for  
2-47 the tax year in which the determination is made, reduced by any  
2-48 state-mandated exemptions but not reduced for any exemptions from  
2-49 taxation that are within the discretion of the governing body of the  
2-50 district.

2-51 (2) "Carry costs" means interest calculated at an  
2-52 annual rate equal to the weighted average interest rate of the  
2-53 district debt that accrues on the excluded land's share of the  
2-54 district debt, with reductions for prior payments, from the later  
2-55 of the exclusion date or the last interest payment date for district  
2-56 debt for which district taxes have been levied and collected to the  
2-57 earlier of:

2-58 (A) the date of the final interest payment on  
2-59 district debt before the next delinquency for the district's tax  
2-60 collection; or

2-61 (B) the earliest dates on which an aggregate  
2-62 amount of district obligations equal to the district debt may be  
2-63 paid at maturity or redeemed at the option of the district, provided  
2-64 the amount is paid in advance of any future district tax levy, using  
2-65 the redemption dates available for the district's outstanding  
2-66 obligations as of the exclusion date.

2-67 (3) "District debt" means the principal outstanding  
2-68 from time to time of the tax-supported debt of the district  
2-69 outstanding on the exclusion date, including debt used to refund

district debt outstanding on the exclusion date.

(4) "Excluded land" means land that is excluded from a district under Section 49.3076.

(5) "Excluded land payment" means, with respect to excluded land, the sum of the excluded land's share of district debt plus the carry costs, less any taxes collected by the district under Subsection (b).

(6) "Excluded land's share of district debt" means the portion of the district debt that is calculated by multiplying the district debt by a fraction the numerator of which is the adjusted gross value of the excluded land on the exclusion date and the denominator of which is the adjusted gross value of all property in the district on the exclusion date.

(7) "Exclusion date" means the date that the owner files the petition requesting that the excluded land be excluded from the district with the district secretary.

(8) "Termination date" means the earlier of:

(A) the date on which the amount of taxes collected from the excluded land equals the excluded land payment; or

(B) the date on which the excluded land payment is made in full.

(b) 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. A district is entitled to continue to levy and collect debt service taxes on the excluded land until the termination date at the same rate those taxes are levied on the land remaining in the district. 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. After the termination date, the excluded land is excluded from the district for all purposes, and the district may not levy any further tax on the excluded land.

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

(d) A person is entitled 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. 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. After a partial payment, carry costs must be calculated and assessed and collected only on the remaining excluded land's share of district debt. ~~[Land excluded from a district under Section 49.3076 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. The district shall 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 the land was excluded from the district.]~~

~~[(b) The district shall apply the taxes collected on the excluded land only to the payment of the excluded land's pro rata share of the debt.]~~

~~[(c) The owner of any part of the excluded land may 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. Subchapter J, Chapter 49, Water Code, is amended by adding Section 49.3078 to read as follows:

Sec. 49.3078. PETITION FOR EXCLUSION: ADDITIONAL DUTIES. A landowner who signs a petition for the exclusion of land that is filed with a district under Section 49.3076 must submit a copy of the petition to the commission. On receipt of a copy of a petition, the executive director shall review the most recent financial information for the applicable district, including current debt requirements, debt service cash flow, and 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. The executive director shall notify the landowner and the district when the review is complete.

SECTION 4. Subsections (a) and (c), Section 49.312, Water Code, are amended to read as follows:

(a) Except as provided by Section 49.3077, on ~~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) Except as provided by Section 49.3077, once land is ~~Once~~ excluded, the landowner has no further liability to the district for future taxes, assessments, or other charges of the district.

SECTION 5. Subsection (a-1), Section 49.3076, Water Code, is repealed.

SECTION 6. Section 49.3076, Water Code, as amended by this Act, applies only to a petition for exclusion of land that is filed with a district on or after the effective date of this Act. A petition filed before the effective date of this Act is governed by the law in effect on the date the petition is filed, and that law continues in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2013.

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