

HARRIS COUNTY FLOOD CONTROL DISTRICT

H. B. No. 1131

An Act creating the Harris County Flood Control District in Harris County, Texas, and defining its powers; designating the Commissioners Court as the governing body of such District and defining the powers of such Court in connection therewith; providing for the filing of a petition for the issuance of bonds, notice of hearing thereon, for an election therefor, and the procedure; limiting the tax rate in support of bonds voted; providing for the issuance of bonds and the manner and form thereof and the procedure in connection with the issuance, registration, approval, and sale thereof; defining the duties of the various officials of Harris County; providing that State laws applicable to contracts and accounting for funds shall apply to such District; making the Act cumulative of other laws; providing for the use of public property by such District; granting the right of eminent domain; providing laws relating to assessing and collecting State and county current and delinquent taxes shall apply to said District; providing that if any provision of this Act shall be held invalid or unconstitutional the other provisions shall not be affected; repealing all laws or parts of laws in conflict herewith; and declaring an emergency.

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

Section 1. Harris County Flood Control District Created. There is hereby created and established within the State of Texas, in addition to the districts into which the State has heretofore been divided, in the form and manner hereinafter provided, a conservation and reclamation district to be known as Harris County Flood Control District, hereinafter called the District, and consisting of that part of the State of Texas which is known as and included within the boundaries of the County of Harris. Such District shall be a governmental agency and body politic and corporate, with the powers of government and with the authority to exercise the rights, privileges, and functions hereinafter specified, the creation and establishment of such District being essential to the accomplishment of the purposes of Section 59 of Article XVI of the Constitution of the State of Texas, as amended, including the control, storing, preservation, and distribution of the storm and flood waters, and the waters of the rivers and streams in Harris County and their tributaries, for domestic, municipal, flood control, irrigation, and other useful purposes, the reclamation and drainage of the overflow land of Harris County, the conservation of forests, and to aid in the protection of navigation on the navigable waters by regulating the flood and storm waters that flow into said navigable streams.

The Commissioners Court of Harris County, Texas, is hereby designated as the governing body of such District and the agency through which the management and control of the District shall be administered, and it is hereby empowered to do any and all things necessary to carry out the aims and purposes of this Act.

Sec. 2 Added Powers. In addition to the powers given to the Commissioners Court by General Laws and in addition to the general powers herein given, it shall be authorized in connection with the Harris County Flood Control District to exercise the following added rights, powers, privileges, and functions:

a. To acquire land and rights and interest therein and any other character of property needed to carry on the work of flood control, by gift, devise, purchase, or condemnation;

b. To sell, trade, or otherwise dispose of land or other property or rights therein when the same are no longer needed for the project or flood control purposes;

c. To appoint a flood control manager and such agents and employees of the County for flood control purposes as may be necessary, including an engineer and counsel, and to prescribe their duties and fix their bonds and compensation;

d. To authorize its officers, employees, or agents to go upon any lands lying within the District for the purpose of making surveys and examining the same in connection with flood control plans and projects, and for any other lawful purpose within the scope of its authority;

e. To devise plans and construct works to lessen and control floods; to reclaim lands in the District; to prevent the deposit of silt in navigable streams; to remove obstructions, natural or artificial, from streams and water courses; to regulate the flow of surface and flood waters; and to provide drainage where essential to the flood control project;

f. To exercise all powers, rights, privileges, and functions, conferred by general law upon flood control districts created pursuant to Section 59 of Article XVI of the Constitution of Texas, as amended, so far as the same may be applicable to Harris County and essential to the flood control project;

g. To cooperate with and contract with the United States of America or with any of its agencies now existing, or which may be created hereafter, for grants, loans, or advancements to carry out any of the powers or to further any of the purposes set forth in this Act and to receive and use said moneys for such purposes; or to contribute to the United States of America or any of its agencies in connection with any project undertaken by it affecting or relating to flood control in Harris County;

h. To cooperate with, or to contract with, the City of Houston, or any adjacent county, or any agency or political subdivision of the State, or any city or town within Harris County in relation to surveys, the acquisition of land or right of ways, the construction or maintenance of projects or parts thereof or the financing of the same in connection with any matter within the scope of this Act;

i. To sue and be sued in any proper case under the laws of this State; and all courts shall take judicial notice of the establishment of the said District; and

j. To do any and all other acts or things necessary or proper to carry into effect the foregoing powers.

Sec. 3. Petition for Hearing. A petition may be filed with the County Clerk of Harris County for submission to the Commissioners Court, signed by not less than fifty (50) qualified property taxpaying voters resident of said County who own and assess property therein, accompanied by the certificate of the Assessor and Collector of Taxes showing that such persons have correctly stated the facts with respect to their qualifications to sign the petition, which petition may request the submission to the qualified voters the question of the issuance of a named amount of bonds for flood control purposes under the provisions of Section 59 of Article XVI of the Constitution of the State of Texas, as amended. Said petition shall set out the general nature of the work to be done, the necessity therefor, the feasibility thereof, and a reasonable amount of detail with respect to the matters alleged, sufficient to inform the Commissioners Court fully of the purpose, utility, feasibility, and necessity therefor. The petition shall state the estimated cost of the project as then estimated and its operating costs and shall give such additional information as may be available for the purpose. The petition shall request that the Commissioners Court hear evidence of the feasibility, practicability, and costs of the project and whether or not the same would be a public benefit and is needed, and that an election be called to determine whether or not said bonds shall be issued.

Sec. 4. Notice of Hearing. Notice of such hearing shall be given by publication once a week for two (2) consecutive weeks prior to the date fixed for such hearing and exclusive thereof in a daily newspaper published in Harris County which said notice shall consist of a certified copy of the petition and of the order of the Court setting the same for hearing and shall be signed by the County Judge. In addition thereto, the Sheriff of Harris County shall post at least fifteen (15) days prior to the date of hearing, one copy of said notice at each of four (4) public places in Harris County and one copy thereof at the Courthouse door, and said sheriff and the editor of the newspaper in which said notice is published shall make due return under oath showing the dates of posting and publication, respectively.

Sec. 5. Hearing. The Commissioners Court shall have jurisdiction to hear, consider, and determine the matters brought before it in said petition and by the evidence produced in favor of and against the proposition to issue bonds. The hearing may be continued from day to day. Should the Court refuse said petition it shall so find and its order shall be recorded in its minutes refusing said petition and giving its reasons therefor. Should the Commissioners Court determine that the proposition to issue such bonds should be submitted at an election called for the purpose it shall thereupon enter its order making its findings with respect to the matters herein provided for and shall be authorized to submit in accordance with the provisions of the Constitution and with Subdivisions 1 and 2 of Title 22 of the Revised Civil Statutes of Texas of 1925, to an election of the qualified property taxpaying voters resident of said County who own and assess property therein, the question of a bond issue for the purpose of providing said funds, and said County is given the right, after a majority vote of the electors qualified as herein required in favor of the proposition to issue bonds, to issue flood control bonds as authorized by Section 59 of the Constitution of the State of Texas, as amended, upon

a compliance with the provisions of Subdivisions 1 and 2 of Title 22, Revised Civil Statutes of Texas of 1925, and with this Section, and within the limitations therein prescribed; and to levy and assess upon all the property subject to taxation in said County, and thereafter to collect such taxes as may annually be required to pay the interest on the bonds voted at said election and to create a sinking fund sufficient to retire said bonds at maturity; provided that additional bonds may be issued from time to time in like manner and under the same procedure.

Provided further, however, that the initial issuance of bonds shall not be for a sum which will require a tax rate in excess of Fifteen (15) Cents on the one hundred dollars valuation of the property within said District, nor shall any subsequent issue of said bonds be authorized the effect of which will be to increase the tax rate for all outstanding bonds of said District including such issue to an amount in excess of Fifteen (15) Cents on the one hundred dollars valuation to pay the interest on said bonds and to create a sinking fund to retire the same at maturity.

Sec. 6. Bond Record. Before any Harris County Flood Control District bonds authorized by this Act shall be sold, a certified copy of the proceedings for the issuance thereof including certificates showing the bonded indebtedness of the District, certificates showing the assessed values of the property of the County, and certificates reflecting any other information which the Attorney General of the State of Texas may require, shall be submitted to the Attorney General; and if he shall approve such bonds, he shall execute a certificate to that effect, which shall be filed in the office of the Comptroller of Public Accounts of the State of Texas.

No bonds shall be sold until the State Board of Education has been given its preferential right of purchase as provided by law, and until the same shall have been registered by the Comptroller who shall so register the same if the Attorney General shall have filed with the Comptroller of Public Accounts of the State of Texas his certificate approving the bonds and the proceedings for the issuance thereof, as hereinabove provided.

The County Treasurer shall keep a record in a well-bound book of all bonds issued and shall register therein the amount of bonds issued, the numbers, the denomination, rate of interest, date due, date of issue, the paying agent, the amount received, and the purchaser. The said book shall be at all times open to the inspection of all proper parties, either taxpayers or bondholders or officials of the State or County.

When such bonds have been registered with the County Treasurer, the Commissioners Court of said County shall set a date for the sale of such amount of bonds as may be needed to procure funds to construct the improvements then contemplated and pay the expenses incident thereto, and after advertising said bonds for sale by notice published once a week for two (2) consecutive weeks, shall sell such bonds upon the best terms and for the best price obtainable, but none of said bonds shall be sold for less than the face value thereof and accrued interest thereon to date of delivery, and the purchase price of such bonds shall be paid to the County Treasurer and shall be by him placed to the credit of the Harris County Flood Control District and said funds shall be available for the construction of the project and its operation as

voted; provided that the accrued interest and premium received shall be credited to the interest and sinking fund of the County for such issue of bonds. No commission shall be paid for the sale of any bonds.

All bonds approved by the Attorney General, registered by the Comptroller, and issued and sold in accordance with the proceedings so approved, shall be valid and binding obligations of the Harris County Flood Control District of Harris County, Texas, and shall be incontestable for any cause from and after the time of such registration, except for forgery (forgery) or fraud.

The Commissioners Court shall have the right to employ the County Auditor or any other qualified person to prepare all orders, notices, certificates, and transcripts of the proceedings of any issue of bonds in order to obtain the opinion of the Attorney General and a commercial legal opinion to insure the full market price for such bonds when sold, and to pay all the necessary expenses incident thereto and to the printing, registering, issuance, sale, and approval of such bonds.

Sec. 7. Form of Bonds. All bonds issued under the provisions of this Act shall be issued in the name of the Harris County Flood Control District of Harris County, Texas, and shall be signed by the County Judge, attested by the County Clerk, and the seal of the Commissioners Court of Harris County shall be affixed to each of them. Said bonds shall be registered with the County Treasurer and his Certificate of Registration shall be endorsed on said bonds. Said bonds shall be issued in denominations of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000), as determined in the order authorizing their issuance, and shall bear interest at a rate not to exceed five (5) per centum per annum, payable semiannually and evidenced by attached coupons which shall bear the facsimile signatures of the County Judge and of the County Clerk. The bonds shall mature serially or otherwise in such number of years as may be determined by the Commissioners Court not to exceed thirty (30) years.

Payment of principal and interest may be made at such places as may be determined by the Commissioners Court in the order authorizing the issuance of such bonds.

Sec. 8. State Laws Applicable. All existing State Laws, General or Special, applicable to contracts and to the receipt and disbursement of, and accounting for, public funds in Harris County are hereby made applicable to the contracts and to the receipt and disbursement of, and accounting for, any funds collected and disbursed under the terms of this Act. The provisions of this Act shall be cumulative of any other laws upon the subject matter.

Sec. 9. Use of Public Property. In the prosecution of the flood control plans of the Harris County Flood Control District, the District shall be recognized to have the right to make use of the bed and banks of the bayous, rivers, and streams lying within the District, subject to the prior right and authority of the Harris County Houston Ship Channel Navigation District over the navigable streams in the Navigation District and the submerged lands heretofore given by the State of Texas to that Navigation District.

The Harris County Flood Control District shall have a right of way and easement over and across the roads and highways of the State and

its subdivisions for the construction and maintenance of the flood control projects of the District, subject, however, to the concurrence of the State Highway Commission whenever such projects require the relocation or bridging of State highways.

The District shall have the power and authority to overflow or inundate any public lands and public property, and to require the relocation of roads and highways, in the manner and to the extent permitted to any district organized under General Laws, pursuant to Section 59 of Article XVI of the Constitution of this State, as amended.

Sec. 10. Eminent Domain. The Harris County Flood Control District shall have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within the boundaries of the District, necessary or convenient to the exercise of the rights, powers, privileges, and functions conferred upon it by this Act, in the manner provided by General Law with respect to condemnation, or, at the option of the Commissioners Court, in the manner provided by Statutes relative to condemnation by districts organized under General Law pursuant to Section 59 of Article XVI of the Constitution of the State of Texas, as amended.

In condemnation proceedings being prosecuted by said District, the District shall not be required to give bond for appeal or bond for costs.

Sec. 11. Taxes. All laws of the State of Texas relating to the assessing and collecting of State and County Taxes are by this Act made available for, and shall be applied to, the collection of both current and delinquent taxes of the Harris County Flood Control District in so far as such laws are applicable.

Sec. 12. Officers. The County Judge, County Commissioners, the Assessor and Collector of Taxes, the County Treasurer, and the depository are authorized to, and shall be required to, perform all duties in connection with the Flood Control District required of them by law in connection with official matters for Harris County, and the County Auditor shall be the Auditor for the Harris County Flood Control District and all of the provisions of Articles 1667 through 1673, as amended, Acts of the Forty-third Legislature, Regular Session, 1933, shall apply to the Harris County Flood Control District.

Sec. 12-a. Tax Collector's Reports. If at any time after the enactment of this law, the Legislature of the State of Texas shall make any donation or grant or diversion or remission of taxes to or affecting Harris County, Texas, or the flood control district herein created, in H. B. 24 or in H. B. 158, Acts Regular Session, Forty-fifth Legislature, at the end of each month after the effective date of such Act, the Assessor and Collector of Taxes of Harris County shall make an itemized report under oath to the Comptroller of Public Accounts of the State of Texas on forms to be furnished by the Comptroller showing each and every item of the State taxes collected by him upon property and from persons within the District; and he shall accompany the same with an itemized statement listing all taxes received and showing full disposal of all such taxes collected. The said Assessor and Collector of Taxes shall forward his report to the Comptroller, and shall make a like report to the County Auditor, and he shall pay over to the County Treasurer all

moneys collected by him as State taxes so donated or granted under Legislative authority, less such amounts as are allowed by law for assessing and collecting same, and shall remit the balance to the proper authority as required by then existing laws.

The Commissioners Court, in its discretion, may utilize the tax funds donated and granted by the State of Texas for the construction of flood control improvements and other improvements and purposes authorized by such enactments and the maintenance or operation thereof; or may deposit the same in a sinking fund to pay interest on and to redeem bonds of said District or other obligations issued for such purposes, in the manner hereinafter provided.

Sec. 12-b. Issuance of Bonds. The County of Harris, Texas, acting by and through its Commissioners Court, shall have authority and it is hereby authorized to issue its negotiable bonds secured by a pledge of any such taxes hereafter donated, granted, diverted or remitted by the State of Texas to it or the Flood Control District created herein by the terms of H. B. 24 or H. B. 158 of the Regular Session, Forty-fifth Legislature, and the proceeds of the sale of such bonds may be used for purchasing lands, easements, right of ways, structures, and for the construction of improvements, including dams, reservoirs, and all other works suitable for use in connection with the flood control program and projects in said County and the maintenance and operation thereof, and doing all things necessary to the execution of the purposes for which the grant and donation is made; provided, however, that the aggregate amount of bonds to be issued shall not exceed such sum as the donation and grant of the State taxes will service so as to pay interest and to create a sinking fund sufficient to pay said bonds at maturity.

In the event the Commissioners Court of Harris County, Texas, shall determine by a majority vote on a Resolution entered of record, giving the reasons therefor and showing that a necessity exists for utilizing any tax funds hereafter donated and granted by the State of Texas for the issuance of bonds in order to facilitate the construction of improvements and make funds immediately available, said bonds may be issued in the form and manner hereinafter prescribed. The bonds so authorized and issued in accordance with the provisions of this Act need not be issued at one time. The amount of money necessary to provide a sinking fund to mature said bonds and to pay the interest thereon shall be set aside annually from the first of such hereafter donated and granted funds received from the Assessor and Collector of Taxes and said funds may not be diverted to any other purpose. Officers of the County and the Depository are forbidden to authorize the payment of any amount from said State taxes hereafter so donated and granted until there has first been set aside therefrom an amount sufficient to cover all servicing charges for the bonds for the year. Thereupon and after the Auditor has filed a certificate showing the deposit to the interest and sinking fund of a sufficient amount to cover such servicing charges for the year, any taxes hereafter donated, granted, diverted, or remitted to Harris County or the Flood Control District created herein by the State of Texas under the terms of H. B. 24 or H. B. 158, Acts Regular Session, Forty-fifth Legislature, collected during the remainder of the year may be utilized for purposes consistent with this Act. Should the necessity arise, the Commissioners Court may supplement from its general funds any State taxes hereafter donated and granted, but no tax shall ever be levied or any debt be created against the County for such purpose without a vote of the people. Any bonds issued under this Section

shall be in accordance with the provisions of Subdivisions 1 and 2 of Title 22, Revised Civil Statutes, 1925, and any amendments thereto.

Sec. 13. Validity. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portion of this Act shall not be affected thereby, it being the intent of the Legislature in adopting, and of the Governor in approving this Act, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.

Sec. 14. Repeal. All laws or parts of laws in conflict herewith and particularly Senate Bill 447, passed at the Regular Session of the Forty-fifth Legislature, are hereby expressly repealed.

Sec. 15. Emergency. The crowded condition of the calendar and the near approach of the end of the session and the fact that a large area of public and private lands, highways, homes, and other property are periodically subjected to destruction and loss, and that the lives of persons have been lost and are continuously jeopardized, and that navigation in the navigable waters of Harris County is imperiled to such extent as to create a public calamity, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Approved May 15, 1937.

Effective May 15, 1937.