

WATER CODE

TITLE 4. GENERAL LAW DISTRICTS

CHAPTER 68. SHIP CHANNEL SECURITY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 68.001. DEFINITIONS. In this chapter:

(1) "Board" means a district's board of directors.

(2) "District" means a ship channel security district created under this chapter.

(3) "Security project" means a project promoting or aiding security in a district.

(4) "Security service" means a service promoting or aiding security in a district.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.002. NATURE OF DISTRICT; PURPOSE. A district is a special district and political subdivision of this state. A district is created under Section 59, Article XVI, Texas Constitution, and is essential to accomplish the purposes of that section and Sections 52 and 52-a, Article III, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.003. PUBLIC PURPOSE OF SECURITY PROJECTS. A security project is owned, used, and held for public purposes by the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.004. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.005. GENERAL WATER DISTRICT LAW NOT APPLICABLE. Chapter 49 does not apply to a district. Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER B. FACILITIES

Sec. 68.051. APPLICABILITY TO FACILITIES. (a) In this section:

(1) "Chemical manufacturers' association" means an association of chemical manufacturers, refiners, and supporting distribution and terminal facility managers that operate in a district.

(2) "Chemical manufacturers' association facility" means a facility owned by a member of a chemical manufacturers' association.

(3) "Mutual aid organization" means an organization that operates in a district and whose:

(A) primary purpose is the promotion of social welfare by providing assistance for the common good and general welfare to and within the communities of its members for emergency fire protection and other public safety matters; and

(B) members include various industries and governmental entities with the resources required to participate in those activities.

(b) This chapter applies to the following types of facilities in the district:

- (1) a chemical manufacturers' association facility;
- (2) a mutual aid organization facility;
- (3) a facility as defined in 46 U.S.C. Section 70101;
- (4) a facility described by 33 C.F.R. Section 105.105(a);
- (5) a facility subject to an area maritime transportation security plan under 46 U.S.C. Section 70103(b);
- (6) a facility subject to 40 C.F.R. Part 112;
- (7) a general shipyard facility as defined by 46 C.F.R. Section 298.2;

(8) a facility included in one or more of the following categories and codes of the 2007 North American Industry Classification System:

(A) crude petroleum and natural gas extraction, 211111;

(B) petroleum refineries, 324110;

(C) petrochemical manufacturing, 3251;

(D) petroleum lubricating oil and grease manufacturing, 324191;

(E) all other petroleum and coal products manufacturing, 324199;

(F) all other chemical manufacturing, 325998;

(G) petroleum bulk stations and terminals, 424710;

(H) plastics, chemical, and petroleum wholesalers, 424610, 424690, and 424720;

(I) transportation, including rail, water, and road transportation and pipelines, 482111-482112, 483111-483114, 484110-484230, 486110-486990, 488210, 488390, and 488490;

(J) port and harbor operations, 488310;

(K) marine cargo handling, 488320;

(L) warehousing and storage, including general, refrigerated, farm and other, 493110, 493120, 493130, and 493190; and

(M) deep sea and coastal freight and passenger transportation, 483111-483114; and

(9) a facility described by Subsection (c).

(c) Except as provided by Subsection (d), after the district is created, the commissioners court that created the district by order may provide for this chapter to apply to any other type of facility that the district by petition requests the court to add.

(d) This chapter does not apply to the following facilities:

(1) a residential property, including a single-family or multifamily residence;

(2) a retail or service business that is not a facility as defined by 46 U.S.C. Section 70101;

(3) a public access facility as defined by 33 C.F.R.

Section 101.105; or

(4) a facility that is not listed under Subsection (b) and that is owned by:

(A) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(B) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(C) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(D) a person who provides to the public cable television or advanced telecommunications services.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 1, eff. May 20, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 198 (S.B. 1225), Sec. 1, eff. May 25, 2013.

Sec. 68.052. DESIGNEEES FOR FACILITY OWNERS. A facility's owner may designate a person:

(1) to act for the owner in connection with a district; and

(2) to bind the owner under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.053. USE OF CERTAIN DEPARTMENT OF TRANSPORTATION PROPERTY FOR SHIP CHANNEL SECURITY. (a) In this section, "department" means the Texas Department of Transportation.

(b) Use of the department's facilities or property to serve a project aiding security in a ship channel security district created under this chapter serves a transportation purpose. A ship channel security district or a county whose commissioners court has created a ship channel security district may enter into an agreement with the department to provide for use of the department's facilities or property to aid security in the

district.

(c) A county that has entered into an agreement with the department for use of the department's fiber optic network for transportation purposes may use the fiber optic network to serve a project aiding security in a ship channel security district created under this chapter in the same manner as other transportation purposes unless the agreement precludes the use of the fiber optic network for that purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 4 (H.B. 1871), Sec. 1, eff. April 29, 2009.

#### SUBCHAPTER C. CREATION

Sec. 68.101. DISTRICT CREATION BY CERTAIN POPULOUS COUNTIES WITH SHIP CHANNELS. A district may be created only by the commissioners court of a county with a population of 3.3 million or more that has a ship channel in the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.102. PETITION FOR CREATION. A district may be created only if the commissioners court of the county in which the district is proposed to be created receives a petition requesting the district's creation. The petition must be signed by:

(1) the owners of a majority of facilities in the proposed district; and

(2) the owners of a majority of the assessed value of facilities in the proposed district according to the most recent certified property tax rolls of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.103. CONTENTS OF PETITION; DISTRICT TERRITORY. The petition must:

(1) propose a name for the district, which must:

(A) generally describe the location of the district; and

(B) be of the form "\_\_\_\_\_ Ship Channel Security District";

(2) state the general nature of the security projects and security services to be provided by the district; and

(3) describe the proposed district territory and the boundaries of four or five security zones inside the proposed district.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.104. NOTICE OF HEARING; CONTENTS OF NOTICE. (a) The commissioners court of the county in which a district is proposed to be created shall set a date, time, and place for a hearing to consider the petition received by the commissioners court.

(b) The commissioners court shall issue public notice of the hearing. The notice must state:

(1) the date, time, and place of the hearing; and

(2) that any person may appear, present evidence, and testify for or against the creation of the proposed district.

(c) The commissioners court shall publish the notice in a newspaper of general circulation in the county at least one time at least 30 days before the hearing date.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.105. HEARING. At the hearing, any interested person may appear in person or by attorney, present evidence, and offer testimony for or against the creation of the proposed district.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.106. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. After the hearing, the commissioners court shall consider whether to create the proposed district. The commissioners court must make the following findings before approving a petition requesting creation of a district:

(1) the district will serve a public use and benefit;

(2) facilities in the district will benefit from the security projects and security services proposed to be provided by the district;

(3) the creation of the district is in the public interest and useful for the protection of facilities in the district against the threat posed by terrorism; and

(4) the creation of the district is necessary to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.107. ORDER CREATING DISTRICT; CHANGES. (a) If the commissioners court makes the findings under Section 68.106, the commissioners court by order may create the proposed district.

(b) The commissioners court may include in the order any changes or modifications to the proposed district as the court determines are appropriate to reflect the intent of the petition requesting creation of the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER D. BOARD OF DIRECTORS

Sec. 68.151. GOVERNING BODY; COMPOSITION. A district is governed by a board of at least 10 but not more than 13 directors, appointed or serving as follows:

(1) two directors for each security zone appointed by the commissioners court of the county and nominated as provided by Section 68.152;

(2) one director appointed for the district at large by the commissioners court of the county under Section 68.153;

(3) one director appointed under Section 68.154; and

(4) any director serving under Section 68.155.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1,

eff. June 15, 2007.

Sec. 68.152. SECURITY ZONE DIRECTORS. (a) The commissioners court of the county shall appoint as directors for each security zone the one or two nominees as appropriate for the staggering of terms who received the highest number of votes in a vote by the facility owners in each security zone. Each person nominated as a director must be employed by a facility owner at a facility in the zone.

(b) After reviewing the list of persons nominated to be directors, the commissioners court shall approve or disapprove the nominations for each security zone.

(c) If the commissioners court is not satisfied with the list provided for a security zone, the facility owners in the security zone shall provide to the court a new list under Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 2, eff. May 20, 2011.

Sec. 68.153. AT-LARGE DIRECTOR. The director appointed by the commissioners court for the district at large may be:

(1) a person employed by a member of an association that includes steamship owners, operators, and agents and stevedoring and terminal companies and that:

(A) is a Texas nonprofit corporation; and

(B) leases space in the district; or

(2) any other person considered appropriate by the commissioners court.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.154. MUNICIPAL DIRECTOR. (a) If there is a countywide association of mayors and city councils of municipalities in a county that creates a district, the association



shall appoint one director.

(b) If there is not an association described by Subsection (a), the municipalities in the district shall appoint a director. If there is more than one municipality in the district, the governing body of each municipality by resolution may vote in favor of a nominated person and a person who receives the votes of a majority of governing bodies is appointed director.

(c) The director appointed under this section must reside in a municipality adjacent to the largest ship channel in the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.155. PORT AUTHORITY; EX OFFICIO DIRECTOR. (a) In this section, "port authority" means a navigation district located wholly or partly in the security district, and created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) If a port authority is located in the district, the executive director, or a person designated by the executive director, serves as a director. If more than one port authority is located in the district, the executive director, or a person designated by the executive director, of the port authority with the largest territory inside the district serves as a director.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.156. TERMS; INITIAL DIRECTORS. (a) Except as provided by Subsection (b), directors serve staggered two-year terms.

(b) The initial directors shall stagger their terms, with a majority of the directors serving two years, and a minority of directors serving one year. If the initial board has an even number of directors, the terms are staggered equally. If the initial directors cannot agree on the staggering, the directors shall draw lots to determine the directors who serve one-year terms.

(c) When a director's term expires, the successor director is appointed in the manner provided by this subchapter for that director position.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 3, eff. May 20, 2011.

Sec. 68.157. VACANCY. A vacancy in the board is filled by the remaining directors by appointing a person who meets the qualifications for the position, who shall serve for the unexpired term.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.158. QUORUM. For purposes of determining whether a quorum of the board is present, a vacant board position is not counted.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.159. OFFICERS. The board shall elect from its directors a presiding officer, a secretary, and any other officers the board considers necessary or appropriate.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.160. COMPENSATION. A director is not entitled to compensation for service on the board, but is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties of a director.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.161. MEETINGS. (a) Except as provided by Subsection (c), the board shall determine the frequency of its

meetings and may hold meetings at any time the board determines.

(b) The board shall conduct its meetings in this state.

(c) The board shall meet at least once per year in addition to conducting hearings as necessary under Section 68.302.

(d) The board may combine its annual meeting, or any other meeting, with a hearing held under Section 68.302.

(e) At each annual meeting and at each hearing required by Section 68.302, the board shall make available to the public the following, except to the extent the board determines that disclosure may jeopardize the safety and security of a facility in the district:

(1) an accounting of all federal and district money received and spent by the district during the preceding year;

(2) a summary of all security projects implemented by the district, including a report detailing the effectiveness of the security projects;

(3) a description of all pending or planned district security projects; and

(4) an estimate of the money that will be received through any proposed assessments and a description of how the money will be spent.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 4, eff. May 20, 2011.

Sec. 68.162. REMOVAL. The board may remove an appointed director for misconduct or failure to carry out the director's duties on receiving a written petition signed by a majority of the remaining directors.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER E. POWERS AND DUTIES

Sec. 68.201. GENERAL POWERS OF DISTRICT. (a) A district

has all powers necessary or required to accomplish the purposes for which it was created.

(b) A district may do anything necessary, convenient, or desirable to carry out the powers expressly granted or implied by this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.202. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as provided by this chapter, a district has the powers of a district created under Chapter 375, Local Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.203. RULES. The district may adopt rules to govern the operation of the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.204. NAME CHANGE. A board by resolution may change a district's name.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.205. CONTRACTS; GENERALLY. A district may contract with any person for any district purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.206. SECURITY PROJECTS AND SERVICES. (a) The board shall determine what security projects or security services the district will perform. A security project may include a project eligible for funding under a port security grant program of the United States Department of Homeland Security.

(b) A district may own, operate, and maintain a security project or provide a security service as reasonably necessary to

carry out a district power under this chapter.

(c) A district may acquire, construct, complete, develop, own, operate, maintain, and lease a security project or part of a security project or provide a security service inside and outside its boundaries.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.207. CONTRACTS FOR SECURITY PROJECTS OR SERVICES.

(a) A district may contract with any person to plan, establish, develop, construct, renovate, maintain, repair, replace, or operate a security project or to provide a security service.

(b) A district may lease to any person a security project or any part of a security project.

(c) A district may contract with any person for the use or operation of a security project or any part of a security project.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.208. CONTRACTS FOR JOINT USE OF SECURITY PROJECT. A district may contract with any person, public or private, for the joint use of a security project.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.209. CONTRACTS WITH DISTRICT BY GOVERNMENTAL ENTITY. This state, a municipality, a county, another political subdivision of this state, or any other person, without further authorization, may contract with the district to accomplish any district purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.210. PROPERTY POWERS; GENERALLY. A district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of any property, and licenses, patents, rights, and interests necessary, convenient, or

useful for the full exercise of any of its powers under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.211. SUITS. A district may sue and be sued.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.212. NO EMINENT DOMAIN POWER. A district may not exercise the power of eminent domain.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 68.251. GRANTS; LOANS. A district may apply for and accept a grant or loan from any person, including:

- (1) the United States;
- (2) this state; and
- (3) a political subdivision of this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.252. PAYMENT OF EXPENSES. A district may provide for payment of all expenses incurred in its establishment, administration, and operation.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.253. TAXES PROHIBITED. A district may not impose any tax, including a property tax or a sales and use tax.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.254. BONDS PROHIBITED. A district may not issue bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.255. QUARTERLY FINANCIAL REPORT BY COMMISSIONERS COURT. The commissioners court shall provide a quarterly financial report to the board. The report must comply with generally accepted accounting principles and list all federal money received by the county and all outstanding obligations by the county to fund the district and its functions.

Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 5, eff. May 20, 2011.

Sec. 68.256. QUARTERLY GENERAL ACCOUNTING BY BOARD. The board shall prepare a quarterly accounting of the district's general operating and maintenance costs. The accounting must comply with generally accepted accounting principles.

Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 5, eff. May 20, 2011.

#### SUBCHAPTER G. ASSESSMENTS

Sec. 68.301. AUTHORITY TO IMPOSE ASSESSMENT; HEARING REQUIRED. (a) The board may impose one or more assessments against one or more facilities for any district purpose, including for general district purposes or for a specific security project or security service.

(b) The board may not impose the assessment until the board holds the hearing required by this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 6, eff. May 20, 2011.

Sec. 68.302. PROPOSED ASSESSMENTS. A security project or security service may be financed under this chapter after a hearing notice given as required by this subchapter and a public hearing by

the board on the advisability of:

- (1) the security project or security service; and
- (2) the proposed assessments.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.303. NOTICE OF HEARING. (a) Not later than the 30th day before the date of the hearing, the district shall provide notice of the hearing by certified mail, return receipt requested, to each facility owner:

- (1) at the current address of each facility according to the appraisal record maintained by the appraisal district for that facility under Section 25.02, Tax Code; or

- (2) if the appraisal records do not accurately reflect that address or do not show the physical location of a particular facility, at the facility's physical location as reflected by any other information available.

(b) The notice must include:

- (1) the time and place of the hearing;

- (2) the general nature of the proposed security project or security service;

- (3) the estimated cost of the security project or security service; and

- (4) the proposed method of assessment.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 7, eff. May 20, 2011.

Sec. 68.304. CONDUCTING HEARING; FINDINGS. (a) A hearing on a proposed security project or security service, whether conducted by the board or a hearing examiner, may be adjourned from time to time.

(b) At the conclusion of the hearing, the board by resolution shall make findings relating to:

- (1) the advisability of the security project or



security service;

(2) the nature of the security project or security service;

(3) the estimated cost;

(4) the facilities benefited;

(5) the method of assessment; and

(6) the method and time for payment of the assessment.

(c) If a hearing examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearing examiner shall file with the board a report stating the examiner's findings and conclusions for the board's consideration.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.305. FACILITIES TO BE ASSESSED. (a) In accordance with the findings, the board may impose an assessment against all the facilities in the district or any portion of the facilities in the district, and may impose an assessment against fewer facilities than those proposed for assessment in the hearing notice.

(b) Except as provided by Subsection (c), the facilities to be assessed may not include a facility that is not in the district at the time of the hearing unless there is an additional hearing preceded by the required notice.

(c) The owner of a facility described by Subsection (b) may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for the facility.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.306. ASSESSMENT RATE CHANGE. After notice and a hearing, the board by majority vote may increase or decrease the rate of assessment. The board must provide notice of the hearing in the manner provided by Section 68.303.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.307. OBJECTIONS; LEVY OF ASSESSMENT. (a) At a hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearing examiner's report, the board shall hear and rule on all objections to each proposed assessment.

(b) The board by majority vote may amend proposed assessments for any facility.

(c) After all objections have been heard and action has been taken with regard to those objections, the board by resolution shall impose the assessments on the facilities and shall specify the method of payment of the assessments. A facility shall pay assessments in one lump sum on the date designated by the board, unless the board allows the assessments to be paid in periodic installments under Subsection (d).

(d) Periodic installments must be in amounts sufficient to meet annual costs for security projects or security services provided by this chapter and continue for the number of years required to pay for the security projects and security services to be rendered.

(e) If assessments are imposed for more than one security project or security service, the board may provide that assessments collected for one security project or security service may be used for another security project or security service.

(f) The board shall establish a procedure for the use or refund of any assessments in excess of those necessary to finance a security project or security service for which those assessments were collected.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 8, eff. May 20, 2011.

Sec. 68.308. APPORTIONMENT OF ASSESSMENT. The board shall apportion the cost of a security project or security service to be assessed against a facility based on any reasonable assessment plan that results in imposing fair and equitable shares of the cost.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1,

eff. June 15, 2007.

Sec. 68.309. ASSESSMENT ROLL. (a) Once the estimated total cost of a security project or security service is determined, the board shall impose the assessments against each facility against which an assessment may be imposed in the district. The board may impose an annual assessment that is lower but not higher than the initial assessment.

(b) The board shall have an assessment roll prepared showing the assessments against each facility and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.310. SUPPLEMENTAL ASSESSMENTS. After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment:

(1) relating to the total cost of the security project or security service; or

(2) covering delinquencies or costs of collection.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.311. APPEAL. (a) Not later than the 30th day after the date that an assessment is adopted, a facility owner may file a notice appealing the assessment to the board.

(b) The board shall set a date to hear the appeal.

(c) Failure to file the notice in the time required by this section results in loss of the right to appeal the assessment.

(d) The board may make a reassessment or new assessment of the facility if the assessment against the facility is:

(1) set aside by a court;

(2) found excessive by the board; or

(3) determined invalid by the board.

(e) A reassessment or new assessment under Subsection (d)(1) may not violate the court order that set aside the assessment.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.312. APPEAL OF RESOLUTION. (a) A facility against which an assessment is made by board resolution may appeal the assessment to a district court in the county in the manner provided for the appeal of contested cases under Chapter 2001, Government Code.

(b) Review by the district court is by trial de novo.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.313. FAILURE TO PAY ASSESSMENT; LIENS FOR ASSESSMENTS. (a) If an assessed facility fails to pay an assessment as provided in a district's assessment plan, the district may impose a lien against the facility assessed.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the facility assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the facility even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) This section applies to a property interest that is a

facility listed in Section 68.051(b), including:

- (1) an improvement or fixture; and
- (2) an owned or leased property interest.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 9, eff. May 20, 2011.

Sec. 68.314. DELINQUENT ASSESSMENTS. A delinquent assessment incurs interest, penalties, and attorney's fees in the same manner as a delinquent ad valorem tax. The owner of a facility may pay at any time the entire assessment, with interest, penalties, and attorney's fees that have accrued on the assessment. Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.315. ASSESSMENT OF GOVERNMENTAL ENTITIES AND NONPROFITS. (a) Except as provided by this section, the district may not impose an assessment on:

- (1) a governmental entity, including a municipality, county, or other political subdivision; or
- (2) an organization exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(b) An entity or organization described by Subsection (a) may contract with a district to pay assessments under terms the district and the entity or organization consider advisable.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER H. DISSOLUTION

Sec. 68.351. DISSOLUTION OF DISTRICT FOR FAILURE TO IMPOSE AN ASSESSMENT. A district is dissolved if the district has not imposed an assessment before the fifth anniversary of the date of the order creating the district under Section 68.107. The county

that created the district assumes any district debts or assets.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

Sec. 68.352. DISSOLUTION OF DISTRICT BY BOARD VOTE OR OWNER PETITION. (a) The board by majority vote may dissolve the district at any time.

(b) A district may be dissolved as provided by Section 375.262, Local Government Code.

(c) The county that created the district assumes any debts or assets of a dissolved district.

Added by Acts 2007, 80th Leg., R.S., Ch. 913 (H.B. 3011), Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER I. ADDITION AND EXCLUSION OF TERRITORY AND FACILITIES

Sec. 68.401. PETITION BY BOARD TO ADD TERRITORY AND FACILITIES. (a) A board may petition the commissioners court of the county that created the district to add to the district territory that contains a facility in the county if the board finds that a security project or security service in the district benefits or will benefit the facility.

(b) The petition must describe:

- (1) the territory to be added;
- (2) the facilities in the territory to be added; and
- (3) the total territory of the district after the addition of the territory.

(c) The petition must recommend a security zone in which the facility to be added should be included. The board may recommend modifying one or more security zones as necessary to add the facility. The board of a district that has four security zones may also recommend adding a fifth security zone as necessary to add the new facility. The recommendation must also note whether the security zone of any facilities will change if the petition is granted.

(d) If any part of an assessment imposed by the board is allocable to the facility to be added, the petition must describe

the portion, amount, and payment terms of the portion of the assessment that is allocable to the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 10, eff. May 20, 2011.

Sec. 68.402. HEARING AND ACTION ON BOARD'S PETITION TO ADD TERRITORY AND FACILITIES. The commissioners court:

(1) shall publish notice and conduct a hearing on the petition under Sections 68.104 and 68.105; and

(2) may grant the petition if the commissioners court determines that a security project or security service in the district benefits or will benefit the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 10, eff. May 20, 2011.

Sec. 68.403. PETITION BY FACILITY OWNER TO ADD TERRITORY AND FACILITIES. (a) The owner of a facility in the county may petition the board of a district requesting that the board petition the commissioners court to add to the district territory that contains the facility in the county. The petition must describe the territory and facility to be added and be signed by each owner of the facility.

(b) If the board grants the petition, the board shall petition the commissioners court to add the territory and make recommendations to the court under Subsection (d).

(c) The petition the board submits to the commissioners court must describe:

(1) the territory to be added;

(2) the facilities in the territory to be added; and

(3) the total territory of the district after the addition of the territory.

(d) The board shall recommend the security zone in which the facility to be added should be included. The board may recommend modifying one or more security zones as necessary to add the facility. The board of a district that has four security zones may also recommend adding a fifth security zone as necessary to add the new facility. The recommendation must also note whether the

security zone of any facilities will change if the petition is granted.

(e) If any part of an assessment imposed by the board is allocable to the facility to be added, the board must include with the petition it forwards to the commissioners court a description of the portion, amount, and payment terms of the portion of the assessment that is allocable to the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 10, eff. May 20, 2011.

Sec. 68.404. ACTION ON FACILITY OWNER'S PETITION TO ADD TERRITORY AND FACILITIES. The commissioners court may grant the petition.

Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 10, eff. May 20, 2011.

Sec. 68.405. MODIFICATION OF ORDER. A commissioners court that adds territory under this subchapter shall modify the order that created the district under Section 68.107 to:

- (1) modify the territory;
- (2) add the facility;
- (3) describe any security zones created or modified under this section, including the location of any facilities whose zone has changed;
- (4) identify the security zone in which the added facility is located; and
- (5) describe the portion, amount, and terms of payment of an assessment imposed by the board that is allocable to the facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 10, eff. May 20, 2011.

Sec. 68.406. PETITION BY BOARD TO EXCLUDE TERRITORY AND FACILITIES. (a) On the request of a facility in the district or on its own motion, a board may petition the commissioners court of the county that created the district to exclude territory and included facilities from the district. The petition must include:



(1) a finding by the board that excluding the territory is practical, just, and reasonable;

(2) a description of the territory to be excluded; and

(3) a description of the total territory of the district after the exclusion of the territory.

(b) The petition may include recommendations to:

(1) modify one or more security zones or eliminate a security zone, provided that the district may not have fewer than four security zones; and

(2) modify assessments that the facility has not paid.  
Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 10, eff. May 20, 2011.

Sec. 68.407. HEARING AND ACTION ON BOARD'S PETITION TO EXCLUDE TERRITORY AND FACILITIES. (a) The commissioners court:

(1) shall publish notice and conduct a hearing on the petition under Sections 68.104 and 68.105; and

(2) may grant the petition if the commissioners court finds that exclusion of the territory that contains the facility is practical, just, and reasonable.

(b) A commissioners court that excludes territory under this section shall modify the order that created the district under Section 68.107 to:

(1) modify the territory;

(2) exclude the facility;

(3) describe any security zones modified or eliminated under this section, including the location of any facilities whose zone has changed; and

(4) modify unpaid assessments, as applicable.

Added by Acts 2011, 82nd Leg., R.S., Ch. 99 (S.B. 1104), Sec. 10, eff. May 20, 2011.