



Eric Vendel

Final Analysis
Legislative Service Commission

Sub. H.B. 338

124th General Assembly
(As Passed by the General Assembly)

Reps. Core, Calvert, Sullivan, Allen, Webster, Husted, Lendrum, Kearns, Hollister, Kilbane, Fedor, Perry, Hagan, Reinhard, Manning, Damschroder, Grendell, Niehaus, Clancy, Collier, Faber, Wolpert, Flowers, Carmichael, Latta, Olman, Schaffer, Evans, Peterson, Setzer, Jolivette, Schmidt, Roman, Redfern, Coates, Aslanides, Flannery, Fessler, Salerno

Sens. Harris, White

Effective date: October 1, 2002

ACT SUMMARY

- Repeals the authority for a referendum under the Soil and Water Conservation Commission Law concerning the levying of a uniform assessment for an improvement by a soil and water conservation district, and instead applies the authority and procedures for a referendum under the Board of County Commissioners Law to the levying of a varied or uniform assessment for an improvement by a soil and water conservation district.
- For purposes of bringing such a referendum petition against a soil and water conservation project, requires that a resolution adopted by a joint board of county commissioners under the Soil and Water Conservation Commission Law be considered to be a resolution adopted by the board of county commissioners of each county in the soil and water conservation project area.
- Applies the notice, public hearing, and appeal procedures governing the levying of varied assessments by a district also to the imposition of uniform assessments.
- Requires the notice to property owners of a proposed assessment to include a description of the method used to determine the necessity for and the amount of the proposed assessment.

- Requires a county recorder to record any restrictions on the use of property pursuant to the State Fire Marshal's rules regarding corrective actions for releases from petroleum underground storage tanks, and establishes procedures for the recording of the restrictions.

CONTENT AND OPERATION

Assessments for improvements by soil and water conservation districts

Law retained in part by the act establishes procedures that must be followed when the supervisors of a soil and water conservation district wish to impose assessments to pay for improvements within the district. Assessments may be imposed at either a varied or a uniform rate. If an assessment is to be made at a varied rate, continuing law requires the board of county commissioners, after being so notified by the supervisors of the soil and water conservation district, to give notice by first class mail to every public and private property owner whose property is subject to the assessment and requires newspaper notification if the residence of any owner cannot be ascertained. The law authorizes those property owners to submit objections, requires the board to conduct a hearing on the objections, and authorizes any owner whose objection is not allowed to make an appeal to the court of common pleas of the county in which the property is located. (Sec. 1515.24.)

With respect to uniform assessments, former law required that notice of the proposed levying of the assessment be given in a newspaper of general circulation within the project area at least once a week for three weeks. Any person who owned property that would be subject to the assessment could file a petition for referendum. Former law established detailed procedures for filing the petition and conducting the referendum. The assessment could not be collected unless a majority of the electors voting in the referendum approved it. (Secs. 1515.25, 1515.26, and 1515.27.)

The act repeals the authority and procedures for a referendum concerning a uniform assessment under the Soil and Water Conservation Commission Law (secs. 1515.25, 1515.26, and 1515.27). Instead, it applies the authority and procedures for the holding of a referendum under the Board of County Commissioners Law to the levying of either a varied or uniform assessment for an improvement by a soil and water conservation district. Under that Law, when a petition that requests that the resolution levying the assessment be submitted to the electors and that is signed by 10% of the number of electors who voted for governor in the county is filed with the county auditor within 30 days after the date on which the resolution is passed, the county auditor is required, after ten days following the filing of the petition and not later than 4 p.m. of the 75th day

before the election, to transmit a certified copy of the text of the resolution to the board of elections. The board must examine all signatures on the petition to determine the number of electors of the county who signed the petition. The board must return the petition to the auditor within ten days after receiving it together with a statement attesting to the number of the electors who signed the petition. The board must submit the resolution to the electors of the county, for their approval or rejection, at the succeeding general election held in the county in any year, or on the day of the succeeding primary election held in the county in even-numbered years, occurring subsequent to 75 days after the auditor certifies the sufficiency and validity of the petition to the board of elections. Under that Law, no resolution can go into effect until approved by the majority of those voting on it. (Sec. 305.31.)

For purposes of bringing a referendum petition against a soil and water conservation project under the Board of County Commissioners Law, the act requires that a resolution adopted by a joint board of county commissioners for a soil and water conservation district levying such an assessment be considered to be a resolution adopted by the board of county commissioners of each county in the project area. The electors of any county in the project area may file a petition for referendum under that Law against a resolution adopted by the joint board of county commissioners as if it had been adopted by the board of county commissioners for that county. The referendum must only be conducted in the county in which the referendum petition was filed. The electors of any county in the project area in which no referendum petition was filed are not eligible to vote in the referendum, and the outcome of a referendum has effect only in the county in which the referendum was held. Any county in the project area in which a referendum is not held remains subject to the provisions of the resolution adopted by the joint board of county commissioners for the soil and water conservation district. (Sec. 1515.22.)

The act then generally requires that the continuing procedures for the imposition of an assessment at a varied rate be followed for all assessments, either uniform or varied. This includes the requirement that property owners be notified by first class mail. The act also establishes a new requirement that the notice given to property owners include a description of the method used to determine the necessity for and the amount of the proposed assessment. Thus, under the act, both uniform and varied assessments may be challenged by either the filing of an objection or the filing of a petition to hold a referendum.

Finally, the act relocates and clarifies certain procedures concerning the issuance of an order approving the levying of an assessment and the deposit and use of the proceeds of the assessment. (Sec. 1515.24.)



Recording of property use restrictions due to releases from petroleum underground storage tanks

Continuing law requires the State Fire Marshal to be responsible for implementation of the underground storage tank program and corrective action program for releases from underground petroleum storage tanks established by federal law (sec. 3737.88(A)(1), not in the act). For purposes of those programs, the State Fire Marshal must adopt various rules, including rules that are necessary to establish standards for corrective actions for suspected and confirmed releases of petroleum from underground storage tanks (sec. 3737.882(B)). Under the act, any restrictions on the use of real property for the purpose of achieving applicable standards must be contained in a deed or in another instrument that is signed and acknowledged by the property owner in the same manner as a deed. The deed or other instrument must be filed and recorded in the office of the county recorder of the county in which the property is located. Pursuant to the Registration of Land Titles Law, such use restrictions in connection with registered land, as defined in that Law, must be entered as a memorial on the page of the register where the title of the owner is registered. (Sec. 3737.882(E).) In addition, the act requires a county recorder to record any restrictions on the use of property contained in a deed or other instrument as provided under the act (sec. 317.08(A)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-02-01	p. 810
Reported, H. Energy & Environment	01-22-02	pp. 1280-1281
Passed House (98-1)	01-23-02	p. 1290
Reported, S. Energy, Natural Resources, & Environment	03-20-02	p. 1604
Recommitted to S. Energy, Natural Resources & Environment	04-16-02	p. 1676
Re-reported, S. Energy, Natural Resources, & Environment	06-18-02	p. 1907
Passed Senate (33-0)	06-18-02	p. 1912
House concurred in Senate amendments (94-0)	06-19-02	p. 1921

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