

By: Bell of Montgomery, Oliverson

H.B. No. 3140

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Harris-Waller Counties Municipal Utility District No. 5; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 7903A to read as follows:

CHAPTER 7903A. HARRIS-WALLER COUNTIES MUNICIPAL UTILITY DISTRICT

NO. 5

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7903A.0101. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Harris-Waller Counties Municipal Utility District No. 5.

Sec. 7903A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7903A.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 7903A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 7903A.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 7903A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

9 (a) The district is created to serve a public purpose and benefit.

10 (b) The district is created to accomplish the purposes of:

11 (1) a municipal utility district as provided by
12 general law and Section 59, Article XVI, Texas Constitution; and

13 (2) Section 52, Article III, Texas Constitution, that
14 relate to the construction, acquisition, improvement, operation,
15 or maintenance of macadamized, graveled, or paved roads, or
16 improvements, including storm drainage, in aid of those roads.

17 Sec. 7903A.0106. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

20 (b) The boundaries and field notes contained in Section 2 of
21 the Act enacting this chapter form a closure. A mistake made in the
22 field notes or in copying the field notes in the legislative process
23 does not affect the district's:

24 (1) organization, existence, or validity;

25 (2) right to issue any type of bond for the purposes
26 for which the district is created or to pay the principal of and
27 interest on a bond;

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 7903A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7903A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7903A.0202. TEMPORARY DIRECTORS. (a) The temporary
9 board consists of:

10 (1) Josh Trlicek;

11 (2) Sarah Sessum;

12 (3) Courtney Wilcox;

13 (4) Jonathan Corb; and

14 (5) Tyler Brown.

15 (b) Temporary directors serve until the earlier of:

16 (1) the date permanent directors are elected under
17 Section 7903A.0103; or

18 (2) the fourth anniversary of the effective date of
19 the Act enacting this chapter.

20 (c) If permanent directors have not been elected under
21 Section 7903A.0103 and the terms of the temporary directors have
22 expired, successor temporary directors shall be appointed or
23 reappointed as provided by Subsection (d) to serve terms that
24 expire on the earlier of:

25 (1) the date permanent directors are elected under
26 Section 7903A.0103; or

27 (2) the fourth anniversary of the date of the

1 appointment or reappointment.

2 (d) If Subsection (c) applies, the owner or owners of a
3 majority of the assessed value of the real property in the district
4 may submit a petition to the commission requesting that the
5 commission appoint as successor temporary directors the five
6 persons named in the petition. The commission shall appoint as
7 successor temporary directors the five persons named in the
8 petition.

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 7903A.0301. GENERAL POWERS AND DUTIES. The district
11 has the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. 7903A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
14 DUTIES. The district has the powers and duties provided by the
15 general law of this state, including Chapters 49 and 54, Water Code,
16 applicable to municipal utility districts created under Section 59,
17 Article XVI, Texas Constitution.

18 Sec. 7903A.0303. AUTHORITY FOR ROAD PROJECTS. Under
19 Section 52, Article III, Texas Constitution, the district may
20 design, acquire, construct, finance, issue bonds for, improve,
21 operate, maintain, and convey to this state, a county, or a
22 municipality for operation and maintenance macadamized, graveled,
23 or paved roads, or improvements, including storm drainage, in aid
24 of those roads.

25 Sec. 7903A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
26 road project must meet all applicable construction standards,
27 zoning and subdivision requirements, and regulations of each

1 municipality in whose corporate limits the road project is located.

2 (b) If a road project is not located in the corporate limits
3 of a municipality, the road project must meet all applicable
4 construction standards, subdivision requirements, and regulations
5 of each county in which the road project is located.

6 (c) If a road project extends across the boundary of the
7 corporate limits of a municipality, the road project must meet:

8 (1) for a segment of a road project located in a
9 municipality, the applicable construction standards, subdivision
10 requirements, and regulations of that municipality; and

11 (2) for a segment of a road project located in the
12 unincorporated area of a county, the applicable construction
13 standards, subdivision requirements, and regulations of that
14 county.

15 (d) If the state will maintain and operate the road, the
16 Texas Transportation Commission must approve the plans and
17 specifications of the road project.

18 Sec. 7903A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
19 ORDINANCE OR RESOLUTION. The district shall comply with all
20 applicable requirements of any ordinance or resolution that is
21 adopted under Section 54.016 or 54.0165, Water Code, and that
22 consents to the creation of the district or to the inclusion of land
23 in the district.

24 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

25 Sec. 7903A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
26 The district may issue, without an election, bonds and other
27 obligations secured by:

- 1 (1) revenue other than ad valorem taxes; or
2 (2) contract payments described by Section
3 7903A.0403.

4 (b) The district must hold an election in the manner
5 provided by Chapters 49 and 54, Water Code, to obtain voter approval
6 before the district may impose an ad valorem tax or issue bonds
7 payable from ad valorem taxes.

8 (c) The district may not issue bonds payable from ad valorem
9 taxes to finance a road project unless the issuance is approved by a
10 vote of a two-thirds majority of the district voters voting at an
11 election held for that purpose.

12 Sec. 7903A.0402. OPERATION AND MAINTENANCE TAX. (a) If
13 authorized at an election held under Section 7903A.0401, the
14 district may impose an operation and maintenance tax on taxable
15 property in the district in accordance with Section 49.107, Water
16 Code.

17 (b) The board shall determine the tax rate. The rate may not
18 exceed the rate approved at the election.

19 Sec. 7903A.0403. CONTRACT TAXES. (a) In accordance with
20 Section 49.108, Water Code, the district may impose a tax other than
21 an operation and maintenance tax and use the revenue derived from
22 the tax to make payments under a contract after the provisions of
23 the contract have been approved by a majority of the district voters
24 voting at an election held for that purpose.

25 (b) A contract approved by the district voters may contain a
26 provision stating that the contract may be modified or amended by
27 the board without further voter approval.

1 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

2 Sec. 7903A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
3 OBLIGATIONS. The district may issue bonds or other obligations
4 payable wholly or partly from ad valorem taxes, impact fees,
5 revenue, contract payments, grants, or other district money, or any
6 combination of those sources, to pay for any authorized district
7 purpose.

8 Sec. 7903A.0502. TAXES FOR BONDS. At the time the district
9 issues bonds payable wholly or partly from ad valorem taxes, the
10 board shall provide for the annual imposition of a continuing
11 direct ad valorem tax, without limit as to rate or amount, while all
12 or part of the bonds are outstanding as required and in the manner
13 provided by Sections 54.601 and 54.602, Water Code.

14 Sec. 7903A.0503. BONDS FOR ROAD PROJECTS. At the time of
15 issuance, the total principal amount of bonds or other obligations
16 issued or incurred to finance road projects and payable from ad
17 valorem taxes may not exceed one-fourth of the assessed value of the
18 real property in the district.

19 SECTION 2. The Harris-Waller Counties Municipal Utility
20 District No. 5 initially includes all the territory contained in
21 the following area:

22 Being a tract of land containing 45.924 acres (2,000,467
23 square feet) located in the J. Gibbons, Abstract Number (No.) 133 in
24 Harris County and the J. Gibbons Survey, Abstract No. 286 in Waller
25 County, Texas; Said 45.924 acre tract being all of a called 45.7143
26 acre tract recorded in the name of Thomas F. Mathis, Jr., Ronald
27 Gene Mathis and Cathy Mathis Willhoite in Volume 339, Page 6 of the

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1 Waller County Deed Records (W.C.D.R.) and in Harris County Clerk's
2 File Number (H.C.C.F. No.) H603706, (all bearings are based on the
3 Texas Coordinate System of 1983 (NAD83), South Central Zone, per
4 GPS observations):

5 Beginning at a 1-inch iron pipe found on the occupied West
6 Right-Of-Way (R.O.W.) line of Mathis Road (called 99 feet wide in
7 Volume 17, Page 222 of the Harris County Deed Records (H.C.D.R.) and
8 shown as 66 feet wide on the Harris County Engineering Department
9 R.O.W. Map No. 3912, Sec. 1, 1984), said pipe being at the northeast
10 corner of a called 45.86 acre tract recorded in the name of Laretta
11 Rena Callaway in H.C.C.F. No. U998001, for the southeast corner of
12 the herein described tract, from which found 1/2-inch iron pipe for
13 the southeast corner of said 45.86 acre tract bears South 02 degrees
14 31 minutes 13 seconds East, a distance of 605.89 feet;

15 Thence, with the line common to said 45.86 acre tract and said
16 45.7143 acre tract, South 87 degrees 45 minutes 20 seconds West, a
17 distance of 3314.83 feet (called 3297.22 feet) to a 5/8-inch iron
18 rod with a Miller Survey Group (MSG) cap set on the east line of a
19 called 36.3038 acre tract, recorded in the name of Leslie W. Lofton
20 and Catherine A. Lofton in Volume 670, Page 885 of the W.C.D.R.,
21 same being the northwest corner of said 45.86 acre tract for the
22 southwest corner of said 45.7143 acre tract and the herein
23 described tract, from which a found 3/4-inch pinch top pipe bears
24 South 01 degrees 57 minutes 35 seconds East, a distance of 604.28
25 feet;

26 Thence, with the line common to said 36.3038 acre tract and
27 said 45.7143 acre tract, North 01 degrees 57 minutes 35 seconds

1 West, a distance of 603.94 feet to a 5/8-inch iron rod with a MSG cap
2 set at the southwest corner of a called 37.759 acre tract of land
3 recorded in the name of Brandon J. Cotton, et.al. in H.C.C.F.
4 No. W570059, for the northwest corner of said 45.7143 acre tract
5 and the herein described tract, from which a found 5/8-inch iron rod
6 at the northwest corner of said 37.759 acre tract bears North 01
7 degrees 57 minutes 35 seconds West, a distance of 697.56 feet and
8 from which a found 5/8-inch iron rod bears North 07 degrees 06
9 minutes West, a distance of 7.0 feet;

10 Thence, with the south line of a called 37.759 acre tract and
11 the south line of a called 5.7142 acre tract recorded in the name of
12 Jesus Duran in RP-2016-303676 of the Official Public Records of
13 Real Property of Harris County, Texas (O.P.R.R.P.H.C.T.), same
14 being the north line of said 45.7143 acre tract, North 87 degrees 45
15 minutes 20 seconds East, at a distance of 1649.83 feet pass a found
16 2-inch iron pipe at the common south corner of said 37.759 acre
17 tract and said 5.7142 acre tract, and continue for a total distance
18 of 3309.87 feet (called 3297.22 feet) to a 5/8-inch iron rod with a
19 MSG cap set on the west R.O.W. line of said Mathis Road, at the
20 southeast corner of said 5.7142 acre tract, for the northeast
21 corner of said 45.7143 acre tract and the herein described tract,
22 from which a found 3/4-inch iron pipe at the northeast corner of
23 said 5.7142 acre tract, bears North 02 degrees 25 minutes 47 seconds
24 West, a distance of 150.00 feet;

25 Thence, with the west R.O.W. line of said Mathis Road, same
26 being the east line of said 45.7143 acre tract, South 02 degrees 25
27 minutes 47 seconds East, a distance of 603.94 feet to the Point of

1 Beginning and containing 45.924 acres (2,000,467 square feet) of
2 land.

3 SECTION 3. (a) The legal notice of the intention to
4 introduce this Act, setting forth the general substance of this
5 Act, has been published as provided by law, and the notice and a
6 copy of this Act have been furnished to all persons, agencies,
7 officials, or entities to which they are required to be furnished
8 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
9 Government Code.

10 (b) The governor, one of the required recipients, has
11 submitted the notice and Act to the Texas Commission on
12 Environmental Quality.

13 (c) The Texas Commission on Environmental Quality has filed
14 its recommendations relating to this Act with the governor, the
15 lieutenant governor, and the speaker of the house of
16 representatives within the required time.

17 (d) All requirements of the constitution and laws of this
18 state and the rules and procedures of the legislature with respect
19 to the notice, introduction, and passage of this Act are fulfilled
20 and accomplished.

21 SECTION 4. (a) If this Act does not receive a two-thirds
22 vote of all the members elected to each house, Subchapter C, Chapter
23 7903A, Special District Local Laws Code, as added by Section 1 of
24 this Act, is amended by adding Section 7903A.0306 to read as
25 follows:

26 Sec. 7903A.0306. NO EMINENT DOMAIN POWER. The district may
27 not exercise the power of eminent domain.

1 (b) This section is not intended to be an expression of a
2 legislative interpretation of the requirements of Section 17(c),
3 Article I, Texas Constitution.

4 SECTION 5. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2021.