

By: Stucky

H.B. No. 4619

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Earthland Farms Municipal Management District; providing authority to issue bonds; providing authority to impose assessments and fees; granting a limited power of eminent domain.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3993 to read as follows:

CHAPTER 3993. EARTHLAND FARMS MUNICIPAL MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3993.0101. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Sanger, Texas.

(3) "County" means Denton County, Texas.

(4) "Director" means a board member.

(5) "District" means the Earthland Farms Municipal Management District.

Sec. 3993.0102. NATURE OF DISTRICT. The Earthland Farms Municipal Management District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3993.0103. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential 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

1 chapter.

2 (b) By creating the district and in authorizing the county,
3 the city, and other political subdivisions to contract with the
4 district, the legislature has established a program to accomplish
5 the public purposes set out in Section 52-a, Article III, Texas
6 Constitution.

7 (c) The creation of the district is necessary to promote,
8 develop, encourage, and maintain employment, commerce,
9 transportation, housing, tourism, recreation, the arts,
10 entertainment, economic development, safety, and the public
11 welfare in the district.

12 (d) This chapter and the creation of the district may not be
13 interpreted to relieve the county or the city from providing the
14 level of services provided as of the effective date of the Act
15 enacting this chapter to the area in the district. The district is
16 created to supplement and not to supplant county or city services
17 provided in the district.

18 Sec. 3993.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

19 (a) All land and other property included in the district will
20 benefit from the improvements and services to be provided by the
21 district under powers conferred by Sections 52 and 52-a, Article
22 III, and Section 59, Article XVI, Texas Constitution, and other
23 powers granted under this chapter.

24 (b) The district is created to serve a public use and
25 benefit.

26 (c) The creation of the district is in the public interest
27 and is essential to further the public purposes of:

1 (1) developing and diversifying the economy of the
2 state;

3 (2) eliminating unemployment and underemployment; and

4 (3) developing or expanding transportation and
5 commerce.

6 (d) The district will:

7 (1) promote the health, safety, and general welfare of
8 residents, employers, potential employees, employees, visitors,
9 and consumers in the district, and of the public;

10 (2) provide needed funding for the district to
11 preserve, maintain, and enhance the economic health and vitality of
12 the district territory as a community and business center;

13 (3) promote the health, safety, welfare, and enjoyment
14 of the public by providing pedestrian ways and by landscaping and
15 developing certain areas in the district, which are necessary for
16 the restoration, preservation, and enhancement of scenic beauty;
17 and

18 (4) provide for water, wastewater, drainage, road, and
19 recreational facilities for the district.

20 (e) Pedestrian ways along or across a street, whether at
21 grade or above or below the surface, and street lighting, street
22 landscaping, parking, and street art objects are parts of and
23 necessary components of a street and are considered to be a street
24 or road improvement.

25 (f) The district will not act as the agent or
26 instrumentality of any private interest even though the district
27 will benefit many private interests as well as the public.

1 Sec. 3993.0105. INITIAL DISTRICT TERRITORY. (a) The
2 district is initially composed of the territory described by
3 Section 2 of the Act enacting this chapter.

4 (b) The boundaries and field notes contained in Section 2 of
5 the Act enacting this chapter form a closure. A mistake in the
6 field notes or in copying the field notes in the legislative process
7 does not affect the district's:

8 (1) organization, existence, or validity;

9 (2) right to contract;

10 (3) authority to borrow money or issue any type of
11 bonds for the purposes for which the district is created or to pay
12 the principal of and interest on the bonds;

13 (4) right to impose or collect an assessment or
14 collect other revenue; or

15 (5) legality or operation.

16 Sec. 3993.0106. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
17 All or any part of the area of the district is eligible to be
18 included in:

19 (1) a tax increment reinvestment zone created under
20 Chapter 311, Tax Code; or

21 (2) a tax abatement reinvestment zone created under
22 Chapter 312, Tax Code.

23 Sec. 3993.0107. APPLICABILITY OF MUNICIPAL MANAGEMENT
24 DISTRICTS LAW. Except as otherwise provided by this chapter,
25 Chapter 375, Local Government Code, applies to the district.

26 Sec. 3993.0108. CONSTRUCTION OF CHAPTER. This chapter
27 shall be liberally construed in conformity with the findings and

1 purposes stated in this chapter.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 3993.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors who serve staggered
5 terms of four years.

6 (b) Directors are elected in the manner provided by
7 Subchapter D, Chapter 49, Water Code.

8 Sec. 3993.0202. COMPENSATION; EXPENSES. (a) The district
9 may compensate each director in an amount not to exceed \$150 for
10 each board meeting. The total amount of compensation for each
11 director in one year may not exceed \$7,200.

12 (b) A director is entitled to reimbursement for necessary
13 and reasonable expenses incurred in carrying out the duties and
14 responsibilities of the board.

15 Sec. 3993.0203. INITIAL DIRECTORS. (a) On or after the
16 effective date of the Act enacting this chapter, the owner or owners
17 of a majority of the assessed value of the real property in the
18 district according to the most recent certified tax appraisal rolls
19 for the county may submit a petition to the commission requesting
20 that the commission appoint as initial directors five persons named
21 in the petition. The commission shall appoint as initial directors
22 the persons named in the petition.

23 (b) The initial directors shall determine by lot which three
24 positions expire June 1, 2024, and which two positions expire June
25 1, 2022.

26 (c) This section expires September 1, 2025.

1 SUBCHAPTER C. POWERS AND DUTIES

2 Sec. 3993.0301. GENERAL POWERS AND DUTIES. The district
3 has the powers and duties necessary to accomplish the purposes for
4 which the district is created.

5 Sec. 3993.0302. IMPROVEMENT PROJECTS AND SERVICES. (a) The
6 district, using any money available to the district for the
7 purpose, may provide, design, construct, acquire, improve,
8 relocate, operate, maintain, or finance an improvement project or
9 service authorized under this chapter or Chapter 372 or 375, Local
10 Government Code.

11 (b) The district may contract with a governmental or private
12 entity to carry out an action under Subsection (a).

13 (c) The implementation of a district project or service is a
14 governmental function or service for the purposes of Chapter 791,
15 Government Code.

16 Sec. 3993.0303. NONPROFIT CORPORATION. (a) The board by
17 resolution may authorize the creation of a nonprofit corporation to
18 assist and act for the district in implementing a project or
19 providing a service authorized by this chapter.

20 (b) The nonprofit corporation:

21 (1) has each power of and is considered to be a local
22 government corporation created under Subchapter D, Chapter 431,
23 Transportation Code; and

24 (2) may implement any project and provide any service
25 authorized by this chapter.

26 (c) The board shall appoint the board of directors of the
27 nonprofit corporation. The board of directors of the nonprofit

1 corporation shall serve in the same manner as the board of directors
2 of a local government corporation created under Subchapter D,
3 Chapter 431, Transportation Code, except that a board member is not
4 required to reside in the district.

5 Sec. 3993.0304. LAW ENFORCEMENT SERVICES. To protect the
6 public interest, the district may contract with a qualified party,
7 including the county or the city, to provide law enforcement
8 services in the district for a fee.

9 Sec. 3993.0305. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.
10 The district may join and pay dues to a charitable or nonprofit
11 organization that performs a service or provides an activity
12 consistent with the furtherance of a district purpose.

13 Sec. 3993.0306. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
14 district may engage in activities that accomplish the economic
15 development purposes of the district.

16 (b) The district may establish and provide for the
17 administration of one or more programs to promote state or local
18 economic development and to stimulate business and commercial
19 activity in the district, including programs to:

20 (1) make loans and grants of public money; and

21 (2) provide district personnel and services.

22 (c) The district may create economic development programs
23 and exercise the economic development powers provided to
24 municipalities by:

25 (1) Chapter 380, Local Government Code; and

26 (2) Subchapter A, Chapter 1509, Government Code.

27 Sec. 3993.0307. PARKING FACILITIES. (a) The district may

1 acquire, lease as lessor or lessee, construct, develop, own,
2 operate, and maintain parking facilities or a system of parking
3 facilities, including lots, garages, parking terminals, or other
4 structures or accommodations for parking motor vehicles off the
5 streets and related appurtenances.

6 (b) The district's parking facilities serve the public
7 purposes of the district and are owned, used, and held for a public
8 purpose even if leased or operated by a private entity for a term of
9 years.

10 (c) The district's parking facilities are parts of and
11 necessary components of a street and are considered to be a street
12 or road improvement.

13 (d) The development and operation of the district's parking
14 facilities may be considered an economic development program.

15 Sec. 3993.0308. ADDING OR EXCLUDING LAND. The district may
16 add or exclude land in the manner provided by Subchapter J, Chapter
17 49, Water Code, or by Subchapter H, Chapter 54, Water Code.

18 Sec. 3993.0309. DISBURSEMENTS AND TRANSFERS OF MONEY. The
19 board by resolution shall establish the number of directors'
20 signatures and the procedure required for a disbursement or
21 transfer of district money.

22 Sec. 3993.0310. LIMITED POWER OF EMINENT DOMAIN. (a) The
23 district may exercise the power of eminent domain in the manner
24 provided by Chapter 49, Water Code.

25 (b) The district may not exercise the power of eminent
26 domain outside the district to acquire a site or easement for:

27 (1) a road project; or

1 (2) a recreational facility as defined by Section
2 49.462, Water Code.

3 Sec. 3993.0311. AD VALOREM TAXATION. The district may not
4 impose an ad valorem tax.

5 SUBCHAPTER D. ASSESSMENTS

6 Sec. 3993.0401. PETITION REQUIRED FOR FINANCING SERVICES
7 AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
8 service or improvement project with assessments under this chapter
9 unless a written petition requesting that service or improvement
10 has been filed with the board.

11 (b) A petition filed under Subsection (a) must be signed by
12 the owners of a majority of the assessed value of real property in
13 the district subject to assessment according to the most recent
14 certified tax appraisal roll for the county.

15 Sec. 3993.0402. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
16 The board by resolution may impose and collect an assessment for any
17 purpose authorized by this chapter in all or any part of the
18 district.

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

24 (1) are a first and prior lien against the property
25 assessed;

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

1 taxes; and

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

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

9 (d) The board may make a correction to or deletion from the
10 assessment roll that does not increase the amount of assessment of
11 any parcel of land without providing notice and holding a hearing in
12 the manner required for additional assessments.

13 Sec. 3993.0403. CERTAIN RESIDENTIAL PROPERTY NOT EXEMPT.
14 Section 375.161, Local Government Code, does not apply to the
15 district.

16 Sec. 3993.0404. AUTHORITY TO BORROW MONEY AND TO ISSUE
17 BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on
18 terms determined by the board.

19 (b) The district may issue, by public or private sale,
20 bonds, notes, or other obligations payable wholly or partly from
21 assessments, impact fees, revenue, contract payments, grants, or
22 other district money, or any combination of those sources of money,
23 to pay for any authorized district purpose.

24 (c) The limitation on the outstanding principal amount of
25 bonds, notes, or other obligations provided by Section 49.4645,
26 Water Code, does not apply to the district.

27 (d) The district may issue, by public or private sale,

1 bonds, notes, or other obligations payable wholly or partly from
2 assessments in the manner provided by Subchapter A, Chapter 372,
3 Local Government Code, if the improvement financed by an obligation
4 issued under this section will be conveyed to or operated and
5 maintained by a municipality or other retail utility provider
6 pursuant to an agreement with the district entered into before the
7 issuance of the obligation.

8 Sec. 3993.0405. CONSENT OF MUNICIPALITY OR COUNTY REQUIRED.

9 (a) The board may not issue bonds until the governing body of
10 either the municipality or county in whose limits or
11 extraterritorial jurisdiction the district is located has
12 consented by ordinance or resolution to the creation of the
13 district and to the inclusion of land in the district.

14 (b) This section applies only to the district's first
15 issuance of bonds.

16 SUBCHAPTER J. DISSOLUTION

17 Sec. 3993.0901. DISSOLUTION. (a) The board shall dissolve
18 the district on written petition filed with the board by the owners
19 of:

20 (1) 66 percent or more of the assessed value of the
21 property subject to assessment by the district based on the most
22 recent certified county property tax rolls; or

23 (2) 66 percent or more of the surface area of the
24 district, excluding roads, streets, highways, utility
25 rights-of-way, other public areas, and other property exempt from
26 assessment by the district according to the most recent certified
27 county property tax rolls.

1 (b) The district may not be dissolved if the district:

2 (1) has any outstanding bonded or other indebtedness
3 until that bonded or other indebtedness has been repaid or defeased
4 in accordance with the order or resolution authorizing the issuance
5 of the bonded or other indebtedness;

6 (2) has a contractual obligation to pay money until
7 that obligation has been fully paid in accordance with the
8 contract; or

9 (3) owns, operates, or maintains public works,
10 facilities, or improvements unless the district contracts with
11 another person for the ownership, operation, or maintenance of the
12 public works, facilities, or improvements.

13 (c) Section 375.262, Local Government Code, does not apply
14 to the district.

15 SECTION 2. The Earthland Farms Municipal Management
16 District initially includes all territory contained in the
17 following area:

18 All that certain lot, tract or parcel of land lying and being
19 situated in Denton County, Texas and being a part of the A.H. Lynde
20 Survey, Abstract number 770 and the A.H. Lynde Survey, Abstract
21 number 771 and the A.H. Lynde Survey, Abstract number 777 and the
22 John Gober Survey, Abstract number 486 and being all of that called
23 84.23 acre tract of land described in deed to Earthland Farms, LLC
24 recorded in Instrument number 2018-88474, Real Property Records,
25 Denton County, Texas and being all of Tract I a called 225.78 acre
26 tract and all of Tract II a 10.28 acre tract of land described in
27 deed to Kenny and Daphne Zollinger recorded in Instrument number

1 2015-10615, Real Property Records, Denton County, Texas and being
2 more fully described by metes and bounds as follows;
3 BEGINNING at a 1/2 inch iron rod found in the approximate center of
4 Cash's Mill Road and being the most Westerly Northwest corner of
5 said Tract I and being the Southwest corner of a called 17.031 acre
6 tract of land described in deed to Edward Joseph Huettenmueller and
7 wife, Rhonda Huettenmuller recorded in Volume 990, Page 505, Deed
8 Records, Denton County, Texas;
9 THENCE along the common line of said 17.031 acre tract and this
10 tract, South 89 degrees 39 minutes 20 seconds East, 911.81 feet to a
11 wood fence corner post at the Southeast corner of said 17.031 acre
12 tract;
13 THENCE South 89 degrees 44 minutes 28 seconds East, 2270.67 feet to
14 a 1/2 inch iron rod found;
15 THENCE North 01 degrees 10 minutes 32 seconds East, 305.83 feet to a
16 capped iron rod set stamped "KAZ";
17 THENCE North 89 degrees 33 minutes 58 seconds West, 807.42 feet to a
18 wood fence corner post;
19 THENCE North 00 degrees 28 minutes 11 seconds East, 1397.44 feet to
20 a capped iron rod set stamped "KAZ" at the most Northerly Northwest
21 corner of said Tract I and being in the South line of Stone Creek, an
22 addition to Denton County, Texas according to the plat recorded in
23 Cabinet P, Page 32, Plat Records, Denton County, Texas;
24 THENCE along the common line of said Stone Creek and this tract,
25 North 89 degrees 54 minutes 40 seconds East, 2151.99 feet to a wood
26 fence corner at the Northeast corner of said Tract I and the
27 Northwest corner of said 84.23 acre tract and also being the

1 Southeast corner of the J.M. Gist Survey, Abstract number 478;
2 THENCE continuing along said common line, South 89 degrees 42
3 minutes 43 seconds East, passing a capped iron rod found at 2728.42
4 feet, continuing in all a total distance of 2758.66 feet to a Mag
5 nail set in the approximate center of Lois Road and being the
6 Northeast corner of said 84.23 acre tract;
7 THENCE along said center, South 00 degrees 14 minutes 51 seconds
8 West, 1333.22 feet to a Mag nail set at the Southeast corner of said
9 84.23 acre tract and the Northeast corner of a called 120.67 acre
10 tract of land described in deed to Don Gillum recorded in Instrument
11 number 2015-146204, Real Property Records, Denton County, Texas;
12 THENCE along the common line of said 120.67 acre tract and this
13 tract, North 89 degrees 42 minutes 43 seconds West, 2710.53 feet to
14 a 1/2 inch iron rod found at the most Southerly Southwest corner of
15 said 84.23 acre tract and being the Northwest corner of said 120.67
16 acre tract and being in the East line of the aforesaid Tract I;
17 THENCE along the common line of said 120.67 acre tract and this
18 tract, South 00 degrees 31 minutes 11 seconds West, 1981.65 feet to
19 a capped iron rod set stamped "KAZ" at the Southwest corner of said
20 120.67 acre tract, in the South line of said Abstract 770, and in
21 the North line of said Abstract 486;;
22 THENCE continuing along said common line, North 89 degrees 54
23 minutes 51 seconds East, 573.24 feet to a wood fence corner post at
24 a common corner of said 120.67 acre tract and this tract and the
25 Northeast corner of said Abstract number 486 and also being the
26 Northwest corner of the R. Gist Survey, Abstract number 504;
27 THENCE South 02 degrees 25 minutes 15 seconds East, 427.42 feet to a

1 capped iron rod found at the Southeast corner of said Tract I;
2 THENCE North 89 degrees 38 minutes 28 seconds West, 3284.87 feet to
3 a capped iron rod found at the most Southerly Southwest corner of
4 said Tract I and being the Southeast corner of a called 20.00 acre
5 tract of land described in deed to Floyd Seitzinger, etux recorded
6 in Instrument number 2007-28688, Real Property Records, Denton
7 County, Texas;
8 THENCE along the common line of said 20.00 acre tract and this
9 tract, North 00 degrees 25 minutes 40 seconds East, 1171.02 feet to
10 a metal fence corner post at the Northeast corner of said 20.00 acre
11 tract;
12 THENCE continuing along said common line, North 89 degrees 38
13 minutes 28 seconds West, 743.98 feet to a capped iron rod found at
14 the Northwest corner of said 20.00 acre tract;
15 THENCE North 00 degrees 25 minutes 39 seconds East, 390.34 feet to a
16 1/2 inch iron rod found at the Southeast corner of the
17 aforementioned 10.28 acre tract;
18 THENCE North 89 degrees 38 minutes 28 seconds West, 1147.00 feet to
19 a Mag nail set at the Southwest corner of said 10.28 acre tract and
20 being in the approximate center of the aforementioned Cash's Mill
21 Road;
22 THENCE along said center, North 00 degrees 27 minutes 52 seconds
23 East, 450.60 feet to the PLACE OF BEGINNING and containing 320.41
24 acres of land more or less.

25 SECTION 3. (a) The legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished
3 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4 Government Code.

5 (b) The governor, one of the required recipients, has
6 submitted the notice and Act to the Texas Commission on
7 Environmental Quality.

8 (c) The Texas Commission on Environmental Quality has filed
9 its recommendations relating to this Act with the governor,
10 lieutenant governor, and speaker of the house of representatives
11 within the required time.

12 (d) All requirements of the constitution and laws of this
13 state and the rules and procedures of the legislature with respect
14 to the notice, introduction, and passage of this Act have been
15 fulfilled and accomplished.

16 SECTION 4. (a) Section 3993.0310, Special District Local
17 Laws Code, as added by Section 1 of this Act, takes effect only if
18 this Act receives a two-thirds vote of all the members elected to
19 each house.

20 (b) If this Act does not receive a two-thirds vote of all the
21 members elected to each house, Subchapter C, Chapter 3993, Special
22 District Local Laws Code, as added by Section 1 of this Act, is
23 amended by adding Section 3993.0310 to read as follows:

24 Sec. 3993.0310. NO EMINENT DOMAIN POWER. The district may
25 not exercise the power of eminent domain.

26 (c) This section is not intended to be an expression of a
27 legislative interpretation of the requirements of Section 17(c),

1 Article I, Texas Constitution.

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