

By: Kitzman

H.B. No. 5343

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Wharton County Municipal Utility
3 District No. 1; granting a limited power of eminent domain;
4 providing authority to issue bonds; providing authority to impose
5 assessments, fees, and taxes.

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

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 7980A to read as follows:

9 CHAPTER 7980A. WHARTON COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7980A.0101. DEFINITIONS. In this chapter:

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

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

15 (3) "Director" means a board member.

16 (4) "District" means the Wharton County Municipal
17 Utility District No. 1.

18 Sec. 7980A.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 7980A.0103. CONFIRMATION AND DIRECTOR ELECTION
22 REQUIRED. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five permanent
24 directors as provided by Section 49.102, Water Code.

1 Sec. 7980A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7980A.0103 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district as required by
7 applicable law.

8 Sec. 7980A.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. 7980A.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. 7980A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7980A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7980A.0202. TEMPORARY DIRECTORS. (a) On or after the
9 effective date of the Act enacting this chapter, the owner or owners
10 of a majority of the assessed value of the real property in the
11 district may submit a petition to the commission requesting that
12 the commission appoint as temporary directors the five persons
13 named in the petition. The commission shall appoint as temporary
14 directors the five persons named in the petition.

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

16 (1) the date permanent directors are elected under
17 Section 7980A.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 7980A.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 7980A.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. 7980A.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. 7980A.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. 7980A.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. 7980A.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 or extraterritorial
2 jurisdiction the road project is located.

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

8 (c) If the state will maintain and operate the road, the
9 Texas Transportation Commission must approve the plans and
10 specifications of the road project.

11 Sec. 7980A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
12 ORDINANCE OR RESOLUTION. The district shall comply with all
13 applicable requirements of any ordinance or resolution that is
14 adopted under Section 54.016 or 54.0165, Water Code, and that
15 consents to the creation of the district or to the inclusion of land
16 in the district.

17 Sec. 7980A.0306. DIVISION OF DISTRICT. (a) The board, on
18 its own motion or on receipt of a petition signed by the owner or
19 owners of a majority of the assessed value of the real property in
20 the district, may adopt an order dividing the district.

21 (b) An order dividing a district may create one or more new
22 districts and may provide for the continuation of the district.

23 (c) An order dividing the district shall:

24 (1) name any new district;

25 (2) include the metes and bounds description of the
26 territory of each of the districts;

27 (3) appoint temporary directors for any new district;

1 and

2 (4) provide for the division of assets and liabilities
3 between the districts.

4 (d) The board may adopt an order dividing the district
5 before or after the date the board holds an election to confirm the
6 district's creation.

7 (e) The district may be divided only if the district:

8 (1) has never issued any bonds; and

9 (2) is not imposing ad valorem taxes.

10 (f) A new district created by the division of the district
11 may not, at the time the new district is created, contain any land
12 outside the area described by Section 2 of the Act enacting this
13 chapter.

14 (g) On or before the 30th day after the date of adoption of
15 an order dividing the district, the district shall file the order
16 with the commission and record the order in the real property
17 records of each county in which the district is located.

18 (h) This chapter applies to any new district created by the
19 division of the district, and a new district has all the powers and
20 duties of the district.

21 (i) A new district created by the division of the district
22 shall hold a confirmation and directors' election.

23 (j) If the creation of the new district is confirmed, the
24 new district shall provide the election date and results to the
25 commission.

26 (k) A new district created by the division of the district
27 must hold an election as required by this chapter to obtain voter

1 approval before the district may impose a maintenance tax or issue
2 bonds payable wholly or partly from ad valorem taxes.

3 (l) The district may continue to rely on confirmation,
4 directors', bond, or tax elections held prior to the division.

5 (m) Municipal consent to the creation of the district and to
6 the inclusion of land in the district acts as municipal consent to
7 the creation of any new district created by the division of the
8 district and to the inclusion of land in the new district.

9 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

10 Sec. 7980A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
11 The district may issue, without an election, bonds and other
12 obligations secured by:

- 13 (1) revenue other than ad valorem taxes; or
14 (2) contract payments described by Section
15 7980A.0403.

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

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

24 Sec. 7980A.0402. OPERATION AND MAINTENANCE TAX. (a) If
25 authorized at an election held under Section 7980A.0401, the
26 district may impose an operation and maintenance tax on taxable
27 property in the district in accordance with Section 49.107, Water

1 Code.

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

4 Sec. 7980A.0403. CONTRACT TAXES. (a) In accordance with
5 Section 49.108, Water Code, the district may impose a tax other than
6 an operation and maintenance tax and use the revenue derived from
7 the tax to make payments under a contract after the provisions of
8 the contract have been approved by a majority of the district voters
9 voting at an election held for that purpose.

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

13 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

14 Sec. 7980A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
15 OBLIGATIONS. The district may issue bonds or other obligations
16 payable wholly or partly from ad valorem taxes, impact fees,
17 revenue, contract payments, grants, or other district money, or any
18 combination of those sources, to pay for any authorized district
19 purpose.

20 Sec. 7980A.0502. TAXES FOR BONDS. At the time the district
21 issues bonds payable wholly or partly from ad valorem taxes, the
22 board shall provide for the annual imposition of a continuing
23 direct ad valorem tax, without limit as to rate or amount, while all
24 or part of the bonds are outstanding as required and in the manner
25 provided by Sections 54.601 and 54.602, Water Code.

26 Sec. 7980A.0503. BONDS FOR ROAD PROJECTS. At the time of
27 issuance, the total principal amount of bonds or other obligations

1 issued or incurred to finance road projects and payable from ad
2 valorem taxes may not exceed one-fourth of the assessed value of the
3 real property in the district.

4 SECTION 2. The Wharton County Municipal Utility District
5 No. 1 initially includes all the territory contained in the
6 following area:

7 Being a 104.7 acre tract of land (TRACT "A") and a 119.2 acre
8 tract of land (TRACT "B") located in the G.H. & H.R.R. Company
9 Survey, Section No. 5, A-169 in Wharton County, Texas; said 104.7
10 acre tract being all of a called 104.735 acre tract of land recorded
11 as "TRACT 1" in Book 1183, Pages 123-131 of the Waller County Deed
12 Records (W.C.D.R.), said 104.735 acre tract being described as all
13 of Lots 39-44, all of Lots 70-73 and the west 1/2 of Lot 69 of the
14 Miller Land Company Subdivision as recorded in Volume 28, Page 413
15 of the W.C.D.R., said 119.2 acre tract being all of called 119.171
16 acre tract of land recorded as "TRACT 2" in Book 1183, Pages 123-131
17 of the W.C.D.R., said 119.171 acre tract being described as all of
18 Lots 74-78 and all of Lots 90-93 of said Miller Land Company
19 Subdivision; said tracts being more particularly described by metes
20 and bounds as follows (all bearings are based on the Texas
21 Coordinate System, South Central Zone and referenced to the
22 northwesterly line of said 104.735 acre tract):

23 TRACT "A": 104.7 ACRES

24 BEGINNING at the west corner of said 104.735 acre tract, same
25 being on the northeasterly line of a 30-foot wide platted road and
26 the south line of a 60-foot wide platted road;

27 Thence, with the north line of said 104.735 acre tract and the

1 south line of said 60-foot wide road, North 79 degrees 16 minutes 00
2 seconds East, a distance of 1,643.39 feet to the north corner of
3 said 104.735 acre tract, same being on the southwesterly line of a
4 40-foot wide platted road;

5 Thence, with the northeasterly line of said 104.735 acre
6 tract and the southwesterly line of said 40-foot wide road, South 47
7 degrees 17 minutes 42 seconds East, a distance of 2,471.78 feet to
8 the northeasterly corner of said 104.735 acre tract;

9 Thence, with the easterly line of said 104.735 acre tract,
10 South 02 degrees 17 minutes 42 seconds East, a distance of 933.38
11 feet to a southeasterly corner of said 104.735 acre tract, same
12 being a common corner of aforesaid Lots 44, 45, 68 and 69;

13 Thence, with the southeasterly line of said 104.735 acre
14 tract, South 42 degrees 42 minutes 18 seconds West, a distance of
15 660.00 feet to the south corner of said 104.735 acre tract, same
16 being on the northeasterly line of aforesaid 30-foot wide road;

17 Thence, with the southwesterly line of said 104.735 acre
18 tract and the northeasterly line of said 30-foot wide road, North 47
19 degrees 17 minutes 42 seconds West, a distance of 4,110.73 feet to
20 the Point of Beginning and containing 104.7 acres of land.

21 TRACT "B": 119.2 ACRES

22 BEGINNING at the west corner of aforesaid 119.171 acre tract,
23 same being on the northeasterly line of a 40-foot wide platted road
24 and the south line of a 60-foot wide platted road;

25 Thence, with the north line of said 119.171 acre tract and the
26 south line of said 60-wide road, North 79 degrees 16 minutes 00
27 seconds East, a distance of 1,643.39 feet to the north corner of

1 said 119.171 acre tract, same being on the southwesterly line of a
2 30-wide platted road;

3 Thence, with the northeasterly line of said 119.171 acre
4 tract and the southwesterly line of said 30-wide road, South 47
5 degrees 17 minutes 42 seconds East, a distance of 3,443.16 feet to
6 the east corner of said 119.171 acre tract;

7 Thence, with the southeasterly line of said 119.171 acre
8 tract, South 42 degrees 42 minutes 18 seconds West, a distance of
9 1,320.00 feet to the south corner of said 119.171 acre tract, same
10 being a common corner of aforesaid Lots 78 and 79 on the
11 northeasterly line of aforesaid 40-foot wide road;

12 Thence, with the southwesterly line of said 119.171 acre
13 tract and the northeasterly line of said 40-foot wide road, North 47
14 degrees 17 minutes 42 seconds West, a distance of 4,422.11 feet to
15 the Point of Beginning and containing 119.2 acres of land.

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

23 (b) The governor, one of the required recipients, has
24 submitted the notice and Act to the Texas Commission on
25 Environmental Quality.

26 (c) The Texas Commission on Environmental Quality has filed
27 its recommendations relating to this Act with the governor, the

1 lieutenant governor, and the speaker of the house of
2 representatives within the required time.

3 (d) All requirements of the constitution and laws of this
4 state and the rules and procedures of the legislature with respect
5 to the notice, introduction, and passage of this Act are fulfilled
6 and accomplished.

7 SECTION 4. (a) If this Act does not receive a two-thirds
8 vote of all the members elected to each house, Subchapter C, Chapter
9 7980A, Special District Local Laws Code, as added by Section 1 of
10 this Act, is amended by adding Section 7980A.0307 to read as
11 follows:

12 Sec. 7980A.0307. NO EMINENT DOMAIN POWER. The district may
13 not exercise the power of eminent domain.

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

17 SECTION 5. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2023.