

1-1 By: Kitzman (Senate Sponsor - Huffman) H.B. No. 5343  
 1-2 (In the Senate - Received from the House May 10, 2023;  
 1-3 May 10, 2023, read first time and referred to Committee on Local  
 1-4 Government; May 15, 2023, reported favorably by the following  
 1-5 vote: Yeas 7, Nays 0; May 15, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Bettencourt	X			
1-8 Springer	X			
1-9 Eckhardt			X	
1-10 Gutierrez			X	
1-11 Hall	X			
1-12 Nichols	X			
1-13 Parker	X			
1-14 Paxton	X			
1-15 West	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the creation of the Wharton County Municipal Utility  
 1-20 District No. 1; granting a limited power of eminent domain;  
 1-21 providing authority to issue bonds; providing authority to impose  
 1-22 assessments, fees, and taxes.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
 1-25 Code, is amended by adding Chapter 7980A to read as follows:

1-26 CHAPTER 7980A. WHARTON COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7980A.0101. DEFINITIONS. In this chapter:

1-29 (1) "Board" means the district's board of directors.

1-30 (2) "Commission" means the Texas Commission on  
 1-31 Environmental Quality.

1-32 (3) "Director" means a board member.

1-33 (4) "District" means the Wharton County Municipal  
 1-34 Utility District No. 1.

1-35 Sec. 7980A.0102. NATURE OF DISTRICT. The district is a  
 1-36 municipal utility district created under Section 59, Article XVI,  
 1-37 Texas Constitution.

1-38 Sec. 7980A.0103. CONFIRMATION AND DIRECTOR ELECTION  
 1-39 REQUIRED. The temporary directors shall hold an election to  
 1-40 confirm the creation of the district and to elect five permanent  
 1-41 directors as provided by Section 49.102, Water Code.

1-42 Sec. 7980A.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
 1-43 temporary directors may not hold an election under Section  
 1-44 7980A.0103 until each municipality in whose corporate limits or  
 1-45 extraterritorial jurisdiction the district is located has  
 1-46 consented by ordinance or resolution to the creation of the  
 1-47 district and to the inclusion of land in the district as required by  
 1-48 applicable law.

1-49 Sec. 7980A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-50 (a) The district is created to serve a public purpose and benefit.

1-51 (b) The district is created to accomplish the purposes of:

1-52 (1) a municipal utility district as provided by  
 1-53 general law and Section 59, Article XVI, Texas Constitution; and

1-54 (2) Section 52, Article III, Texas Constitution, that  
 1-55 relate to the construction, acquisition, improvement, operation,  
 1-56 or maintenance of macadamized, graveled, or paved roads, or  
 1-57 improvements, including storm drainage, in aid of those roads.

1-58 Sec. 7980A.0106. INITIAL DISTRICT TERRITORY. (a) The  
 1-59 district is initially composed of the territory described by  
 1-60 Section 2 of the Act enacting this chapter.

1-61 (b) The boundaries and field notes contained in Section 2 of

2-1 the Act enacting this chapter form a closure. A mistake made in the  
 2-2 field notes or in copying the field notes in the legislative process  
 2-3 does not affect the district's:

- 2-4 (1) organization, existence, or validity;
- 2-5 (2) right to issue any type of bond for the purposes  
 2-6 for which the district is created or to pay the principal of and  
 2-7 interest on a bond;
- 2-8 (3) right to impose a tax; or
- 2-9 (4) legality or operation.

2-10 SUBCHAPTER B. BOARD OF DIRECTORS

2-11 Sec. 7980A.0201. GOVERNING BODY; TERMS. (a) The district  
 2-12 is governed by a board of five elected directors.

2-13 (b) Except as provided by Section 7980A.0202, directors  
 2-14 serve staggered four-year terms.

2-15 Sec. 7980A.0202. TEMPORARY DIRECTORS. (a) On or after the  
 2-16 effective date of the Act enacting this chapter, the owner or owners  
 2-17 of a majority of the assessed value of the real property in the  
 2-18 district may submit a petition to the commission requesting that  
 2-19 the commission appoint as temporary directors the five persons  
 2-20 named in the petition. The commission shall appoint as temporary  
 2-21 directors the five persons named in the petition.

2-22 (b) Temporary directors serve until the earlier of:

2-23 (1) the date permanent directors are elected under  
 2-24 Section 7980A.0103; or

2-25 (2) the fourth anniversary of the effective date of  
 2-26 the Act enacting this chapter.

2-27 (c) If permanent directors have not been elected under  
 2-28 Section 7980A.0103 and the terms of the temporary directors have  
 2-29 expired, successor temporary directors shall be appointed or  
 2-30 reappointed as provided by Subsection (d) to serve terms that  
 2-31 expire on the earlier of:

2-32 (1) the date permanent directors are elected under  
 2-33 Section 7980A.0103; or

2-34 (2) the fourth anniversary of the date of the  
 2-35 appointment or reappointment.

2-36 (d) If Subsection (c) applies, the owner or owners of a  
 2-37 majority of the assessed value of the real property in the district  
 2-38 may submit a petition to the commission requesting that the  
 2-39 commission appoint as successor temporary directors the five  
 2-40 persons named in the petition. The commission shall appoint as  
 2-41 successor temporary directors the five persons named in the  
 2-42 petition.

2-43 SUBCHAPTER C. POWERS AND DUTIES

2-44 Sec. 7980A.0301. GENERAL POWERS AND DUTIES. The district  
 2-45 has the powers and duties necessary to accomplish the purposes for  
 2-46 which the district is created.

2-47 Sec. 7980A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND  
 2-48 DUTIES. The district has the powers and duties provided by the  
 2-49 general law of this state, including Chapters 49 and 54, Water Code,  
 2-50 applicable to municipal utility districts created under Section 59,  
 2-51 Article XVI, Texas Constitution.

2-52 Sec. 7980A.0303. AUTHORITY FOR ROAD PROJECTS. Under  
 2-53 Section 52, Article III, Texas Constitution, the district may  
 2-54 design, acquire, construct, finance, issue bonds for, improve,  
 2-55 operate, maintain, and convey to this state, a county, or a  
 2-56 municipality for operation and maintenance macadamized, graveled,  
 2-57 or paved roads, or improvements, including storm drainage, in aid  
 2-58 of those roads.

2-59 Sec. 7980A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
 2-60 road project must meet all applicable construction standards,  
 2-61 zoning and subdivision requirements, and regulations of each  
 2-62 municipality in whose corporate limits or extraterritorial  
 2-63 jurisdiction the road project is located.

2-64 (b) If a road project is not located in the corporate limits  
 2-65 or extraterritorial jurisdiction of a municipality, the road  
 2-66 project must meet all applicable construction standards,  
 2-67 subdivision requirements, and regulations of each county in which  
 2-68 the road project is located.

2-69 (c) If the state will maintain and operate the road, the

3-1 Texas Transportation Commission must approve the plans and  
 3-2 specifications of the road project.  
 3-3 Sec. 7980A.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
 3-4 ORDINANCE OR RESOLUTION. The district shall comply with all  
 3-5 applicable requirements of any ordinance or resolution that is  
 3-6 adopted under Section 54.016 or 54.0165, Water Code, and that  
 3-7 consents to the creation of the district or to the inclusion of land  
 3-8 in the district.  
 3-9 Sec. 7980A.0306. DIVISION OF DISTRICT. (a) The board, on  
 3-10 its own motion or on receipt of a petition signed by the owner or  
 3-11 owners of a majority of the assessed value of the real property in  
 3-12 the district, may adopt an order dividing the district.  
 3-13 (b) An order dividing a district may create one or more new  
 3-14 districts and may provide for the continuation of the district.  
 3-15 (c) An order dividing the district shall:  
 3-16 (1) name any new district;  
 3-17 (2) include the metes and bounds description of the  
 3-18 territory of each of the districts;  
 3-19 (3) appoint temporary directors for any new district;  
 3-20 and  
 3-21 (4) provide for the division of assets and liabilities  
 3-22 between the districts.  
 3-23 (d) The board may adopt an order dividing the district  
 3-24 before or after the date the board holds an election to confirm the  
 3-25 district's creation.  
 3-26 (e) The district may be divided only if the district:  
 3-27 (1) has never issued any bonds; and  
 3-28 (2) is not imposing ad valorem taxes.  
 3-29 (f) A new district created by the division of the district  
 3-30 may not, at the time the new district is created, contain any land  
 3-31 outside the area described by Section 2 of the Act enacting this  
 3-32 chapter.  
 3-33 (g) On or before the 30th day after the date of adoption of  
 3-34 an order dividing the district, the district shall file the order  
 3-35 with the commission and record the order in the real property  
 3-36 records of each county in which the district is located.  
 3-37 (h) This chapter applies to any new district created by the  
 3-38 division of the district, and a new district has all the powers and  
 3-39 duties of the district.  
 3-40 (i) A new district created by the division of the district  
 3-41 shall hold a confirmation and directors' election.  
 3-42 (j) If the creation of the new district is confirmed, the  
 3-43 new district shall provide the election date and results to the  
 3-44 commission.  
 3-45 (k) A new district created by the division of the district  
 3-46 must hold an election as required by this chapter to obtain voter  
 3-47 approval before the district may impose a maintenance tax or issue  
 3-48 bonds payable wholly or partly from ad valorem taxes.  
 3-49 (l) The district may continue to rely on confirmation,  
 3-50 directors', bond, or tax elections held prior to the division.  
 3-51 (m) Municipal consent to the creation of the district and to  
 3-52 the inclusion of land in the district acts as municipal consent to  
 3-53 the creation of any new district created by the division of the  
 3-54 district and to the inclusion of land in the new district.  
 3-55 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS  
 3-56 Sec. 7980A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
 3-57 The district may issue, without an election, bonds and other  
 3-58 obligations secured by:  
 3-59 (1) revenue other than ad valorem taxes; or  
 3-60 (2) contract payments described by Section  
 3-61 7980A.0403.  
 3-62 (b) The district must hold an election in the manner  
 3-63 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
 3-64 before the district may impose an ad valorem tax or issue bonds  
 3-65 payable from ad valorem taxes.  
 3-66 (c) The district may not issue bonds payable from ad valorem  
 3-67 taxes to finance a road project unless the issuance is approved by a  
 3-68 vote of a two-thirds majority of the district voters voting at an  
 3-69 election held for that purpose.

4-1 Sec. 7980A.0402. OPERATION AND MAINTENANCE TAX. (a) If  
4-2 authorized at an election held under Section 7980A.0401, the  
4-3 district may impose an operation and maintenance tax on taxable  
4-4 property in the district in accordance with Section 49.107, Water  
4-5 Code.

4-6 (b) The board shall determine the tax rate. The rate may not  
4-7 exceed the rate approved at the election.

4-8 Sec. 7980A.0403. CONTRACT TAXES. (a) In accordance with  
4-9 Section 49.108, Water Code, the district may impose a tax other than  
4-10 an operation and maintenance tax and use the revenue derived from  
4-11 the tax to make payments under a contract after the provisions of  
4-12 the contract have been approved by a majority of the district voters  
4-13 voting at an election held for that purpose.

4-14 (b) A contract approved by the district voters may contain a  
4-15 provision stating that the contract may be modified or amended by  
4-16 the board without further voter approval.

4-17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

4-18 Sec. 7980A.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
4-19 OBLIGATIONS. The district may issue bonds or other obligations  
4-20 payable wholly or partly from ad valorem taxes, impact fees,  
4-21 revenue, contract payments, grants, or other district money, or any  
4-22 combination of those sources, to pay for any authorized district  
4-23 purpose.

4-24 Sec. 7980A.0502. TAXES FOR BONDS. At the time the district  
4-25 issues bonds payable wholly or partly from ad valorem taxes, the  
4-26 board shall provide for the annual imposition of a continuing  
4-27 direct ad valorem tax, without limit as to rate or amount, while all  
4-28 or part of the bonds are outstanding as required and in the manner  
4-29 provided by Sections 54.601 and 54.602, Water Code.

4-30 Sec. 7980A.0503. BONDS FOR ROAD PROJECTS. At the time of  
4-31 issuance, the total principal amount of bonds or other obligations  
4-32 issued or incurred to finance road projects and payable from ad  
4-33 valorem taxes may not exceed one-fourth of the assessed value of the  
4-34 real property in the district.

4-35 SECTION 2. The Wharton County Municipal Utility District  
4-36 No. 1 initially includes all the territory contained in the  
4-37 following area:

4-38 Being a 104.7 acre tract of land (TRACT "A") and a 119.2 acre  
4-39 tract of land (TRACT "B") located in the G.H. & H.R.R. Company  
4-40 Survey, Section No. 5, A-169 in Wharton County, Texas; said 104.7  
4-41 acre tract being all of a called 104.735 acre tract of land recorded  
4-42 as "TRACT 1" in Book 1183, Pages 123-131 of the Waller County Deed  
4-43 Records (W.C.D.R.), said 104.735 acre tract being described as all  
4-44 of Lots 39-44, all of Lots 70-73 and the west 1/2 of Lot 69 of the  
4-45 Miller Land Company Subdivision as recorded in Volume 28, Page 413  
4-46 of the W.C.D.R., said 119.2 acre tract being all of called 119.171  
4-47 acre tract of land recorded as "TRACT 2" in Book 1183, Pages 123-131  
4-48 of the W.C.D.R., said 119.171 acre tract being described as all of  
4-49 Lots 74-78 and all of Lots 90-93 of said Miller Land Company  
4-50 Subdivision; said tracts being more particularly described by metes  
4-51 and bounds as follows (all bearings are based on the Texas  
4-52 Coordinate System, South Central Zone and referenced to the  
4-53 northwesterly line of said 104.735 acre tract):

4-54 TRACT "A": 104.7 ACRES

4-55 BEGINNING at the west corner of said 104.735 acre tract, same  
4-56 being on the northeasterly line of a 30-foot wide platted road and  
4-57 the south line of a 60-foot wide platted road;

4-58 Thence, with the north line of said 104.735 acre tract and the  
4-59 south line of said 60-foot wide road, North 79 degrees 16 minutes 00  
4-60 seconds East, a distance of 1,643.39 feet to the north corner of  
4-61 said 104.735 acre tract, same being on the southwesterly line of a  
4-62 40-foot wide platted road;

4-63 Thence, with the northeasterly line of said 104.735 acre  
4-64 tract and the southwesterly line of said 40-foot wide road, South 47  
4-65 degrees 17 minutes 42 seconds East, a distance of 2,471.78 feet to  
4-66 the northeasterly corner of said 104.735 acre tract;

4-67 Thence, with the easterly line of said 104.735 acre tract,  
4-68 South 02 degrees 17 minutes 42 seconds East, a distance of 933.38  
4-69 feet to a southeasterly corner of said 104.735 acre tract, same



5-1 being a common corner of aforesaid Lots 44, 45, 68 and 69;  
5-2 Thence, with the southeasterly line of said 104.735 acre  
5-3 tract, South 42 degrees 42 minutes 18 seconds West, a distance of  
5-4 660.00 feet to the south corner of said 104.735 acre tract, same  
5-5 being on the northeasterly line of aforesaid 30-foot wide road;  
5-6 Thence, with the southwesterly line of said 104.735 acre  
5-7 tract and the northeasterly line of said 30-foot wide road, North 47  
5-8 degrees 17 minutes 42 seconds West, a distance of 4,110.73 feet to  
5-9 the Point of Beginning and containing 104.7 acres of land.

5-10 TRACT "B": 119.2 ACRES

5-11 BEGINNING at the west corner of aforesaid 119.171 acre tract,  
5-12 same being on the northeasterly line of a 40-foot wide platted road  
5-13 and the south line of a 60-foot wide platted road;

5-14 Thence, with the north line of said 119.171 acre tract and the  
5-15 south line of said 60-wide road, North 79 degrees 16 minutes 00  
5-16 seconds East, a distance of 1,643.39 feet to the north corner of  
5-17 said 119.171 acre tract, same being on the southwesterly line of a  
5-18 30-wide platted road;

5-19 Thence, with the northeasterly line of said 119.171 acre  
5-20 tract and the southwesterly line of said 30-wide road, South 47  
5-21 degrees 17 minutes 42 seconds East, a distance of 3,443.16 feet to  
5-22 the east corner of said 119.171 acre tract;

5-23 Thence, with the southeasterly line of said 119.171 acre  
5-24 tract, South 42 degrees 42 minutes 18 seconds West, a distance of  
5-25 1,320.00 feet to the south corner of said 119.171 acre tract, same  
5-26 being a common corner of aforesaid Lots 78 and 79 on the  
5-27 northeasterly line of aforesaid 40-foot wide road;

5-28 Thence, with the southwesterly line of said 119.171 acre  
5-29 tract and the northeasterly line of said 40-foot wide road, North 47  
5-30 degrees 17 minutes 42 seconds West, a distance of 4,422.11 feet to  
5-31 the Point of Beginning and containing 119.2 acres of land.

5-32 SECTION 3. (a) The legal notice of the intention to  
5-33 introduce this Act, setting forth the general substance of this  
5-34 Act, has been published as provided by law, and the notice and a  
5-35 copy of this Act have been furnished to all persons, agencies,  
5-36 officials, or entities to which they are required to be furnished  
5-37 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
5-38 Government Code.

5-39 (b) The governor, one of the required recipients, has  
5-40 submitted the notice and Act to the Texas Commission on  
5-41 Environmental Quality.

5-42 (c) The Texas Commission on Environmental Quality has filed  
5-43 its recommendations relating to this Act with the governor, the  
5-44 lieutenant governor, and the speaker of the house of  
5-45 representatives within the required time.

5-46 (d) All requirements of the constitution and laws of this  
5-47 state and the rules and procedures of the legislature with respect  
5-48 to the notice, introduction, and passage of this Act are fulfilled  
5-49 and accomplished.

5-50 SECTION 4. (a) If this Act does not receive a two-thirds  
5-51 vote of all the members elected to each house, Subchapter C, Chapter  
5-52 7980A, Special District Local Laws Code, as added by Section 1 of  
5-53 this Act, is amended by adding Section 7980A.0307 to read as  
5-54 follows:

5-55 Sec. 7980A.0307. NO EMINENT DOMAIN POWER. The district may  
5-56 not exercise the power of eminent domain.

5-57 (b) This section is not intended to be an expression of a  
5-58 legislative interpretation of the requirements of Section 17(c),  
5-59 Article I, Texas Constitution.

5-60 SECTION 5. This Act takes effect immediately if it receives  
5-61 a vote of two-thirds of all the members elected to each house, as  
5-62 provided by Section 39, Article III, Texas Constitution. If this  
5-63 Act does not receive the vote necessary for immediate effect, this  
5-64 Act takes effect September 1, 2023.

5-65 \* \* \* \* \*