

By: Kitzman

H.B. No. 5350

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Waller County Municipal Utility
3 District No. 48; 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 7993A to read as follows:

9 CHAPTER 7993A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 48

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7993A.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 Waller County Municipal
17 Utility District No. 48.

18 Sec. 7993A.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 7993A.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. 7993A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7993A.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. 7993A.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. 7993A.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. 7993A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7993A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7993A.0202. TEMPORARY DIRECTORS. (a) The temporary
9 board consists of:

10 (1) Andrew Faubion;

11 (2) Stephen Hallmark;

12 (3) Dave Ciarella;

13 (4) Ben Agee; and

14 (5) Kelly Prewitt.

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

16 (1) the date permanent directors are elected under
17 Section 7993A.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 7993A.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 7993A.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. 7993A.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. 7993A.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. 7993A.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. 7993A.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. 7993A.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 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

18 Sec. 7993A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
19 The district may issue, without an election, bonds and other
20 obligations secured by:

- 21 (1) revenue other than ad valorem taxes; or
22 (2) contract payments described by Section
23 7993A.0403.

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

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

5 Sec. 7993A.0402. OPERATION AND MAINTENANCE TAX. (a) If
6 authorized at an election held under Section 7993A.0401, the
7 district may impose an operation and maintenance tax on taxable
8 property in the district in accordance with Section 49.107, Water
9 Code.

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

12 Sec. 7993A.0403. CONTRACT TAXES. (a) In accordance with
13 Section 49.108, Water Code, the district may impose a tax other than
14 an operation and maintenance tax and use the revenue derived from
15 the tax to make payments under a contract after the provisions of
16 the contract have been approved by a majority of the district voters
17 voting at an election held for that purpose.

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

21 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

22 Sec. 7993A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
23 OBLIGATIONS. The district may issue bonds or other obligations
24 payable wholly or partly from ad valorem taxes, impact fees,
25 revenue, contract payments, grants, or other district money, or any
26 combination of those sources, to pay for any authorized district
27 purpose.

1 Sec. 7993A.0502. TAXES FOR BONDS. At the time the district
2 issues bonds payable wholly or partly from ad valorem taxes, the
3 board shall provide for the annual imposition of a continuing
4 direct ad valorem tax, without limit as to rate or amount, while all
5 or part of the bonds are outstanding as required and in the manner
6 provided by Sections 54.601 and 54.602, Water Code.

7 Sec. 7993A.0503. BONDS FOR ROAD PROJECTS. At the time of
8 issuance, the total principal amount of bonds or other obligations
9 issued or incurred to finance road projects and payable from ad
10 valorem taxes may not exceed one-fourth of the assessed value of the
11 real property in the district.

12 SECTION 2. The Waller County Municipal Utility District
13 No. 48 initially includes all the territory contained in the
14 following area:

15 BEING a 556.1 acre (24,222,967 square foot) tract of land
16 situated in the H. & T.C. R.R. Co. Survey, Section 98, Abstract
17 No. 286, the H. & T.C. R.R. Co. Survey, Section 81, Abstract
18 No. 158, and the H. & T.C. R.R. Co. Survey, Section 82, Abstract
19 No. 290 of Waller County, Texas and being all of a called 556.084
20 acre tract of land as described in an instrument to Freeland
21 (Houston) ASLI X, LLC recorded under Waller County Clerk's File
22 Number (W.C.C.F. No.) 2115429, said 556.1 acre tract of land
23 described by metes and bounds as follows, with all bearings based on
24 the Texas Coordinate System of 1983 (NAD83), South Central Zone
25 4204 and referenced to monuments found along the perimeter of said
26 556.084 acre tract as cited herein:

27 BEGINNING at the Northeast corner of said 556.084 acre tract

1 and the herein described tract, same being the Southeast corner of a
2 called 569.5433 acre tract of land as described in an instrument to
3 Weiss Land and Development, LLC recorded under W.C.C.F.
4 No. 1907427, lying on the West right-of-way line of F.M. 2855 (100
5 feet wide as occupied), from which a found 5/8-inch iron rod with
6 cap stamped "SURVCON" bears S 81°34' W, a distance of 0.34 feet and a
7 found 5/8-inch iron rod with cap stamped "THOMAS 5736" bears N
8 02°14' W, a distance of 7.52 feet;

9 THENCE, S 02°00'51" E, along and with the East line of said
10 556.084 acre tract and the West right-of-way line of said F.M. 2855,
11 a distance of 1,407.43 feet to the most Easterly Southeast corner of
12 the herein described tract and said 556.084 acre tract, same being
13 the Northeast corner a called 160 acre tract of land as described in
14 an instrument to Dollins Farm Partnership recorded under Vol. 1154,
15 Pg. 184 of the Harris County Deed Records (H.C.D.R.), from which a
16 found 3/4-inch iron rod bears N 59°21' W, a distance of 0.31 feet and
17 a found 5/8-inch iron rod with cap stamped "JONES & CARTER" bears N
18 09°51' W, a distance of 7.52 feet;

19 THENCE, S 87°58'30" W, along and with a Southerly line of said
20 556.084 acre tract and the North line of said 160 acre tract, at a
21 distance of 2,624.18 feet pass the Northwest corner of said 160 acre
22 tract and the Northeast corner of a called 318.743 acre tract of
23 land described as Tract 7 in an instrument to Hilcorp Energy I, LP
24 recorded under W.C.C.F. No. 1909037, continuing along and with the
25 a Southerly line of said 556.084 acre tract and the North line of
26 said 318.743 acre tract, a total distance of 5,249.03 feet to an
27 interior corner of the herein described tract and said 556.084 acre

1 tract, same being the Northwest corner of said 318.743 acre tract,
2 from which a found 2-inch iron pipe with cap bears N 70°18' W, 0.64
3 feet;

4 THENCE, S 02°00'26" E, along and with the West line of said
5 318.743 acre tract and an Easterly line of said 556.084 acre tract,
6 a distance of 5,283.54 feet to a found 1/2-inch iron rod with
7 aluminum cap found for the most Southerly Southeast corner of the
8 herein described tract and said 556.084 acre tract, same being the
9 Southwest corner of said 318.743 acre tract, the Northwest corner
10 of a called 79.794 acre tract described as Tract 8 in an instrument
11 to Hilcorp Energy I, LP recorded under W.C.C.F. No. 1909468, and
12 the Northeast corner of a called 258.270 acre tract of land
13 described as Tract I in an instrument to Freeland (Houston) ASLI X,
14 LLC recorded under W.C.C.F. No. 2115430, from which a found
15 1/2-inch iron rod bears N 37°22' E, a distance of 5.54 feet;

16 THENCE, S 87°59'33" W, along and with the South line of said
17 556.084 acre tract and the North line of said 258.270 acre tract, a
18 distance of 1,717.00 feet to a 5/8-inch iron rod found for the
19 Southwest corner of the herein described tract and said 556.084
20 acre tract, same being the Northwest corner of said 258.270 acre
21 tract, lying on the West line of a called 706.172 acre tract of land
22 described as Tract I in an instrument to City of Houston, Texas
23 recorded under Vol. 397, Pg. 51 and Vol. 397, Pg. 65 of the
24 W.C.D.R.;

25 THENCE, N 16°19'33" W, along and with the West line of said
26 556.084 acre tract and the East line of said 706.172 acre tract, a
27 distance of 6,794.62 feet to a 5/8-inch iron rod found the Northwest

1 corner of the herein described tract and said 556.084 acre tract,
2 same being the Southwest corner of said 569.5433 acre tract, from
3 which a found 5/8-inch iron rod with cap stamped "THOMAS 5736" bears
4 N 15°07' W, a distance of 7.65 feet;

5 THENCE, along and with the North line of said 556.084 acre
6 tract and a Southerly line of said 569.5433 acre tract, the
7 following courses and distances:

8 N 87°59'34" E, a distance of 3,397.43 feet to an interior
9 corner of the herein described tract and said 556.084 acre tract,
10 same being a Southerly corner of said 569.5433 acre tract, from
11 which a found 5/8-inch iron rod with cap stamped "JONES & CARTER"
12 bears N 20°37' E, a distance of 0.33 feet and a found 5/8-inch iron
13 rod with cap stamped "THOMAS 5736" bears N 14°34' W, a distance of
14 7.71 feet;

15 N 02°00'26" W, a distance of 107.43 feet along and with
16 the East line of said 569.5433 acre tract and the West line of said
17 556.084 acre tract to a Northerly corner of the herein described
18 tract and said 556.084 acre tract, same being an interior corner of
19 said 569.5433 acre tract, from which a found 5/8-inch iron rod with
20 cap bears S 75°15' W, a distance of 0.27 feet and a found 5/8-inch
21 iron rod with cap bears N 14°21' W, a distance of 7.67 feet;

22 N 87°58'30" E, a distance of 5,248.84 feet along and with
23 the South line of said 569.5433 acre tract and the North line of
24 said 556.084 acre tract to the POINT OF BEGINNING and containing
25 556.1 acres (24,222,967 square feet) of land.

26 SECTION 3. (a) The legal notice of the intention to
27 introduce this Act, setting forth the general substance of this

1 Act, has been published as provided by law, and the notice and a
2 copy of this Act have been furnished to all persons, agencies,
3 officials, or entities to which they are required to be furnished
4 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5 Government Code.

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

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

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

17 SECTION 4. (a) If this Act does not receive a two-thirds
18 vote of all the members elected to each house, Subchapter C, Chapter
19 7993A, Special District Local Laws Code, as added by Section 1 of
20 this Act, is amended by adding Section 7993A.0306 to read as
21 follows:

22 Sec. 7993A.0306. NO EMINENT DOMAIN POWER. The district may
23 not exercise the power of eminent domain.

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

27 SECTION 5. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2023.