

By: Kitzman

H.B. No. 5362

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Waller County Municipal Utility
3 District No. 57; 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 8007A to read as follows:

9 CHAPTER 8007A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 57

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8007A.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. 57.

18 Sec. 8007A.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 8007A.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. 8007A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8007A.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. 8007A.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. 8007A.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. 8007A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 8007A.0202, directors
7 serve staggered four-year terms.

8 Sec. 8007A.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 8007A.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 8007A.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 8007A.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. 8007A.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. 8007A.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. 8007A.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. 8007A.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. 8007A.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. 8007A.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) Any 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 (1) 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. 8007A.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
15 Section 8007A.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. 8007A.0402. OPERATION AND MAINTENANCE TAX. (a) If
25 authorized at an election held under Section 8007A.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. 8007A.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. 8007A.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. 8007A.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. 8007A.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 Waller County Municipal Utility District
5 No. 57 initially includes all the territory contained in the
6 following area:

7 FIELD NOTES FOR A 643.1285 ACRE TRACT OF LAND IN THE T. S.
8 REESE SURVEY, ABSTRACT 331, WALLER COUNTY, TEXAS, BEING THAT
9 CERTAIN CALLED 320 ACRE TRACT (EAST 1/2) AND THAT CERTAIN CALLED 320
10 ACRE TRACT (WEST 1/2) DESCRIBED IN DEED RECORDED IN VOLUME 371, PAGE
11 875, DEED RECORDS, WALLER COUNTY, TEXAS, DISTANCES ARE GEODETIC,
12 BEARINGS ARE GRID, COORDINATES ARE TEXAS STATE PLANE SOUTH CENTRAL
13 ZONE, NAD-27, BASED UPON GPS OBSERVATION MADE ON FEBRUARY 23, 2004,
14 PROCESSED TO NGS CORS DATA AND CONVERTED TO NAD-27 USING BLUE MARBLE
15 GEOGRAPHIC CALCULATOR V.4. SCALE FACTOR USED IS 0.99989622.

16 BEGINNING at a cotton picker spindle set for the northeast
17 corner of the T. S. Reese Survey, Abstract 331, same being the
18 northwest corner of the adjoining H. & T.C. Railroad Company
19 Survey, Section 99, Abstract 167, and being in the south line of the
20 adjoining H. & T.C. Railroad Company Survey, Section 79, Abstract
21 157, said point also being the northeast corner of said called 320
22 acre tract (East 1/2), the northwest corner of an adjoining called
23 640 acre tract described in deed recorded in Volume 371, Page 875,
24 Deed Records, Waller County, Texas, and the northwest corner of an
25 adjoining 646.8295 acre tract (Tract 3) surveyed by the undersigned
26 this date, being in the south line of an adjoining called 98.72 acre
27 tract described in deed recorded in Volume 0621, Page 210, Official

1 Records, Waller County, Texas, and being the northeast corner and
2 Place of Beginning of the herein described 643.1285 acre tract of
3 land, said point being in Morton Road and having coordinates of
4 X=2,980,000 870.52, Y=733,805.59;

5 THENCE South 01 degree 59 minutes 55 seconds East along the
6 common line of the T. S. Reese Survey, Abstract 331, and said
7 adjoining H. & T.C. Railroad Company Survey, Section 99, Abstract
8 167, the common line of said called 320 acre tract (East 1/2) and
9 said adjoining called 640 acre tract, and the common line of the
10 herein described 643.1285 acre tract and said adjoining 646.8295
11 acre tract (Tract 3), as located in Shell Plant Road, 5,306.04 feet
12 to a 1/2 inch iron pipe with cap marked "Kalkomey Surveying" found
13 on said line for the southeast corner of the herein described tract
14 and the southeast corner of said called 320 acre tract (East 1/2),
15 same being the southwest corner of said adjoining called 640 acre
16 tract, the southwest corner of said adjoining 646.8295 acre tract
17 (Tract 3), the northwest corner of an adjoining called 640 acre
18 tract described in deed recorded in Volume 371, Page 875, Deed
19 Records, Waller County, Texas, the northwest corner of an adjoining
20 671.451 acre tract surveyed by the undersigned this date, and the
21 northeast corner of an adjoining called Northeast $\frac{1}{4}$ of Section 77,
22 described in deed recorded in Volume 442, Page 928, Deed Records,
23 Waller County, Texas, said point also being the southeast corner of
24 said T. S. Reese Survey, Abstract 331, southwest corner of said
25 adjoining H. & T.C. Railroad Company Survey, Section 99, Abstract
26 167, the northwest corner of the adjoining J. G. Bennett Survey,
27 Abstract 291, and the northeast corner of the adjoining H. & T.C.

1 Railroad Company Survey, Section 77, Abstract 156;

2 THENCE South 88 degrees 04 minutes 24 seconds West along the
3 common line of the T. S. Reese Survey, Abstract 331, and said
4 adjoining H. & T.C. Railroad Company Survey, Section 77, Abstract
5 156, same being the common line of the herein described tract and
6 said adjoining called Northeast of Section 77, at 2,640.26 feet
7 pass a 3/4 inch iron rod found on said line for the northwest corner
8 of said adjoining called Northeast 1/4 of Section 77, same being the
9 northeast corner of an adjoining called 160.104 acre tract (Tract
10 1) described in deed recorded in Volume 475, Page 502, Deed Records,
11 Waller County, Texas, and continuing for a total distance of
12 5,280.46 feet to a 1/2 inch iron pipe with cap marked "Kalkomey
13 Surveying" set for the southwest corner of the herein described
14 tract and the southwest corner of said called 320 acre tract (West
15 1/2), same being the northwest corner of said adjoining called
16 160.104 acre tract (Tract 1), and being in the east line of an
17 adjoining called 46.7119 acre tract (Tract 6) described in deed
18 recorded in Volume 475, Page 502, Deed Records, Waller County,
19 Texas, said point also being the southwest corner of the T. S. Reese
20 Survey, Abstract 331, the northwest corner of said adjoining H. &
21 T.C. Railroad Company Survey, Section 77, Abstract 156, the
22 northeast corner of the adjoining T. S. Reese Survey, Abstract 329,
23 and the southeast corner of the adjoining H. & T.C. Railroad Company
24 Survey, Section 71, Abstract 153;

25 THENCE North 02 degrees 01 minute 19 seconds West along the
26 common line of the T. S. Reese Survey, Abstract 331, and said
27 adjoining H. & T.C. Railroad Company Survey, Section 71, Abstract

1 153, being the west line of the herein described tract and the west
2 line of said called 320 acre tract (West 1/2), same being the east
3 line of said adjoining called 46.7119 acre tract (Tract 6), and
4 along the east line of an adjoining called 157.6620 acre tract
5 (Tract 5) described in deed recorded in Volume 475, Page 502, Deed
6 Records, Waller County, Texas, at 2,643.71 feet pass a 1/2 inch iron
7 pipe with cap marked "Kalkomey Surveying" set on said line for the
8 northeast corner of said adjoining called 157.6620 acre tract
9 (Tract 5), same being the southeast corner of an adjoining called 80
10 acre tract described in deed recorded in Volume 47, Page 109, Deed
11 Records, Waller County, Texas, at 3,961.25 feet pass a 1/2 inch iron
12 pipe with cap marked "Kalkomey Surveying" set on said line for the
13 northeast corner of said adjoining called 80 acre tract, same being
14 the southeast corner of an adjoining called 39 acre tract described
15 in deed recorded in Volume 371, Page 875, Deed Records, Waller
16 County, Texas, same being the southeast corner of an adjoining
17 40.7498 acre tract (Tract 1) surveyed by the undersigned this date,
18 at 5,242.89 feet pass a 1/2 inch iron pipe with cap marked "Kalkomey
19 Surveying" set on said line for reference, at 5,262.89 feet pass a
20 1/2 inch iron pipe with cap marked "Kalkomey Surveying" set on said
21 line for reference, and continuing for total distance of 5,302.89
22 feet to a 1/2 inch iron rod found for the northwest corner of the
23 herein described tract and the northwest corner of said called 320
24 acre tract (West 1/2), same being the northeast corner of said
25 adjoining called 39 acre tract, the northeast corner of said
26 adjoining 40.7498 acre tract, the southeast corner of an adjoining
27 called 1.8471 acre tract (Exhibit "C"), and the southwest corner of

1 an adjoining called 3,590 acre tract described in deed recorded in
2 Volume 166, Page 494, Deed Records, Waller County, Texas, said
3 point also being the northwest corner of the T. S. Reese Survey,
4 Abstract 331, the northeast corner of said adjoining H. & T.C.
5 Railroad Company Survey, Section 71, Abstract 153, the southeast
6 corner of the adjoining T. S. Reese Survey, Abstract 328, and the
7 southwest corner of the aforementioned adjoining H. & T.C. Railroad
8 Company Survey, Section 79, Abstract 157, being in Morton Road and
9 having coordinates of X=2,975,591.74, Y=733,624.86;

10 THENCE North 88 degrees 02 minutes 21 seconds East along the
11 common line of the T. S. Reese Survey, Abstract 331, and said
12 adjoining H. & T.C. Railroad Company Survey, Section 79, Abstract
13 157, being the north line the herein described tract and the north
14 line of said called 320 acre tract (West 1/2), same being the south
15 line of said adjoining called 3,590 acre tract, and along the south
16 line of an adjoining called 6.027 acre tract described in deed
17 recorded in Volume 397, Page 65, Deed Records, Waller County,
18 Texas, as located in Morton Road, 5,282.42 feet to the Place of
19 Beginning and containing 643.1285 acres of land.

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

27 (b) The governor, one of the required recipients, has

1 submitted the notice and Act to the Texas Commission on
2 Environmental Quality.

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

7 (d) All requirements of the constitution and laws of this
8 state and the rules and procedures of the legislature with respect
9 to the notice, introduction, and passage of this Act are fulfilled
10 and accomplished.

11 SECTION 4. (a) If this Act does not receive a two-thirds
12 vote of all the members elected to each house, Subchapter C, Chapter
13 8007A, Special District Local Laws Code, as added by Section 1 of
14 this Act, is amended by adding Section 8007A.0307 to read as
15 follows:

16 Sec. 8007A.0307. NO EMINENT DOMAIN POWER. The district may
17 not exercise the power of eminent domain.

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

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