

By: Kitzman

H.B. No. 5365

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Austin County Municipal Utility District No. 3; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 7984A to read as follows:

CHAPTER 7984A. AUSTIN COUNTY MUNICIPAL UTILITY DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7984A.0101. DEFINITIONS. In this chapter:

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

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

(3) "Director" means a board member.

(4) "District" means the Austin County Municipal Utility District No. 3.

Sec. 7984A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7984A.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 7984A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7984A.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. 7984A.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. 7984A.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. 7984A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7984A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7984A.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 7984A.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 7984A.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 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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 7984A.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. 7984A.0402. OPERATION AND MAINTENANCE TAX. (a) If
25 authorized at an election held under Section 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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 Austin County Municipal Utility District
5 No. 3 initially includes all the territory contained in the
6 following area:

7 Being 536.9 acres of land situated in the Miles N. Allen
8 Survey, Abstract No. 3, the J.B. Allen Survey, Abstract No. 420 and
9 the R.M. Moore Survey, Abstract No. 381, in Austin County, Texas,
10 said 536.9 acre tract being all of that certain 536.9227 acre tract
11 of land recorded in the name of NESH FARMS HWY. 36, LLC in Document
12 Number 214030, Official Public Records of Austin County, Texas
13 (O.P.R.A.C.), said 536.9 acre tract being more particularly
14 described by metes and bounds as follows; (bearing are based on the
15 southwesterly Right-of-Way (R.O.W.) line of State Highway 36 (SH
16 36) being South 36 degrees 42 minutes 44 seconds East);

17 Beginning at the northerly corner of said 536.9227 acre
18 tract, being the northeasterly corner of a called 4.97 acre tract of
19 land recorded in Document No. 094014, O.P.R.A.C., also being on the
20 southwesterly R.O.W. line of said SH 36;

21 Thence, with the northeasterly line of said 536.9227 acre
22 tract and the southwesterly R.O.W. line of said SH 36, South 36
23 degrees 42 minutes 44 seconds East, a distance of 3,479.28 feet to
24 the northeasterly corner of said 536.9227 acre tract, being the
25 most northerly corner of a called 270.50 acre tract as shown on map
26 recorded in Volume 572, Page 371 of the Austin County Deed Records
27 (A.C.D.R.);

1 Thence, with the common line between said 536.9227 acre tract
2 and said 270.50 acre tract, the following three (3) courses and
3 distances:

4 1. South 43 degrees 51 minutes 00 seconds West, a distance
5 of 3,633.17 feet;

6 2. North 47 degrees 15 minutes 59 seconds West, a distance
7 of 859.26 feet;

8 3. South 42 degrees 47 minutes 12 seconds West, a distance
9 of 4,003.07 feet to the most southerly corner of said 536.9227 acre
10 tract, being on the northerly line of a called 712.06 acre tract of
11 land, Property ID No. 10822, Austin County Appraisal District;

12 Thence, with the southwesterly line of said 536.9227 acre
13 tract and the northeasterly line of said 712.06 acre tract and the
14 northeasterly line of a called 332.00 acre tract of land described
15 in deed recorded in Volume 776, Page 340, A.C.D.R., North 47 degrees
16 22 minutes 51 seconds West, a distance of 2,495.02 feet to the
17 westerly corner of said 536.9227 acre tract, being the
18 southeasterly corner of a called 27.85 acre tract of land described
19 in deed recorded in Volume 449, Page 507, A.C.D.R.;

20 Thence, with the northwesterly line of said 536.9227 acre
21 tract, North 42 degrees 47 minutes 29 seconds East, a distance of
22 8,277.81 feet to the Point of Beginning and containing 536.9 acres
23 of land.

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

1 officials, or entities to which they are required to be furnished
2 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
3 Government Code.

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

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

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

15 SECTION 4. (a) If this Act does not receive a two-thirds
16 vote of all the members elected to each house, Subchapter C, Chapter
17 7984A, Special District Local Laws Code, as added by Section 1 of
18 this Act, is amended by adding Section 7984A.0307 to read as
19 follows:

20 Sec. 7984A.0307. NO EMINENT DOMAIN POWER. The district may
21 not exercise the power of eminent domain.

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

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2023.