

1-1 By: Kitzman (Senate Sponsor - Kolkhorst) H.B. No. 5365
 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 Austin County Municipal Utility
 1-20 District No. 3; 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 7984A to read as follows:

1-26 CHAPTER 7984A. AUSTIN COUNTY MUNICIPAL UTILITY DISTRICT NO. 3

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7984A.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 Austin County Municipal
 1-34 Utility District No. 3.

1-35 Sec. 7984A.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. 7984A.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. 7984A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-43 temporary directors may not hold an election under Section
 1-44 7984A.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. 7984A.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. 7984A.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. 7984A.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 7984A.0202, directors
2-14 serve staggered four-year terms.

2-15 Sec. 7984A.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 7984A.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 7984A.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 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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 7984A.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. 7984A.0402. OPERATION AND MAINTENANCE TAX. (a) If
 4-2 authorized at an election held under Section 7984A.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. 7984A.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. 7984A.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. 7984A.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. 7984A.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 Austin County Municipal Utility District
 4-36 No. 3 initially includes all the territory contained in the
 4-37 following area:

4-38 Being 536.9 acres of land situated in the Miles N. Allen
 4-39 Survey, Abstract No. 3, the J.B. Allen Survey, Abstract No. 420 and
 4-40 the R.M. Moore Survey, Abstract No. 381, in Austin County, Texas,
 4-41 said 536.9 acre tract being all of that certain 536.9227 acre tract
 4-42 of land recorded in the name of NESH FARMS HWY. 36, LLC in Document
 4-43 Number 214030, Official Public Records of Austin County, Texas
 4-44 (O.P.R.A.C.), said 536.9 acre tract being more particularly
 4-45 described by metes and bounds as follows; (bearing are based on the
 4-46 southwesterly Right-of-Way (R.O.W.) line of State Highway 36 (SH
 4-47 36) being South 36 degrees 42 minutes 44 seconds East);

4-48 Beginning at the northerly corner of said 536.9227 acre
 4-49 tract, being the northeasterly corner of a called 4.97 acre tract of
 4-50 land recorded in Document No. 094014, O.P.R.A.C., also being on the
 4-51 southwesterly R.O.W. line of said SH 36;

4-52 Thence, with the northeasterly line of said 536.9227 acre
 4-53 tract and the southwesterly R.O.W. line of said SH 36, South 36
 4-54 degrees 42 minutes 44 seconds East, a distance of 3,479.28 feet to
 4-55 the northeasterly corner of said 536.9227 acre tract, being the
 4-56 most northerly corner of a called 270.50 acre tract as shown on map
 4-57 recorded in Volume 572, Page 371 of the Austin County Deed Records
 4-58 (A.C.D.R.);

4-59 Thence, with the common line between said 536.9227 acre tract
 4-60 and said 270.50 acre tract, the following three (3) courses and
 4-61 distances:

4-62 1. South 43 degrees 51 minutes 00 seconds West, a distance
 4-63 of 3,633.17 feet;

4-64 2. North 47 degrees 15 minutes 59 seconds West, a distance
 4-65 of 859.26 feet;

4-66 3. South 42 degrees 47 minutes 12 seconds West, a distance
 4-67 of 4,003.07 feet to the most southerly corner of said 536.9227 acre
 4-68 tract, being on the northerly line of a called 712.06 acre tract of
 4-69 land, Property ID No. 10822, Austin County Appraisal District;

5-1 Thence, with the southwesterly line of said 536.9227 acre
5-2 tract and the northeasterly line of said 712.06 acre tract and the
5-3 northeasterly line of a called 332.00 acre tract of land described
5-4 in deed recorded in Volume 776, Page 340, A.C.D.R., North 47 degrees
5-5 22 minutes 51 seconds West, a distance of 2,495.02 feet to the
5-6 westerly corner of said 536.9227 acre tract, being the
5-7 southeasterly corner of a called 27.85 acre tract of land described
5-8 in deed recorded in Volume 449, Page 507, A.C.D.R.;

5-9 Thence, with the northwesterly line of said 536.9227 acre
5-10 tract, North 42 degrees 47 minutes 29 seconds East, a distance of
5-11 8,277.81 feet to the Point of Beginning and containing 536.9 acres
5-12 of land.

5-13 SECTION 3. (a) The legal notice of the intention to
5-14 introduce this Act, setting forth the general substance of this
5-15 Act, has been published as provided by law, and the notice and a
5-16 copy of this Act have been furnished to all persons, agencies,
5-17 officials, or entities to which they are required to be furnished
5-18 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-19 Government Code.

5-20 (b) The governor, one of the required recipients, has
5-21 submitted the notice and Act to the Texas Commission on
5-22 Environmental Quality.

5-23 (c) The Texas Commission on Environmental Quality has filed
5-24 its recommendations relating to this Act with the governor, the
5-25 lieutenant governor, and the speaker of the house of
5-26 representatives within the required time.

5-27 (d) All requirements of the constitution and laws of this
5-28 state and the rules and procedures of the legislature with respect
5-29 to the notice, introduction, and passage of this Act are fulfilled
5-30 and accomplished.

5-31 SECTION 4. (a) If this Act does not receive a two-thirds
5-32 vote of all the members elected to each house, Subchapter C, Chapter
5-33 7984A, Special District Local Laws Code, as added by Section 1 of
5-34 this Act, is amended by adding Section 7984A.0307 to read as
5-35 follows:

5-36 Sec. 7984A.0307. NO EMINENT DOMAIN POWER. The district may
5-37 not exercise the power of eminent domain.

5-38 (b) This section is not intended to be an expression of a
5-39 legislative interpretation of the requirements of Section 17(c),
5-40 Article I, Texas Constitution.

5-41 SECTION 5. This Act takes effect immediately if it receives
5-42 a vote of two-thirds of all the members elected to each house, as
5-43 provided by Section 39, Article III, Texas Constitution. If this
5-44 Act does not receive the vote necessary for immediate effect, this
5-45 Act takes effect September 1, 2023.

5-46 * * * * *