

By: Kitzman

H.B. No. 5390

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Waller County Municipal Utility District No. 52; 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 7995A to read as follows:

CHAPTER 7995A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 52

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7995A.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 Waller County Municipal Utility District No. 52.

Sec. 7995A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7995A.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. 7995A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7995A.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.

7 Sec. 7995A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of:

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

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 7995A.0106. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting this chapter form a closure. A mistake made in the
21 field notes or in copying the field notes in the legislative process
22 does not affect the district's:

23 (1) organization, existence, or validity;

24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 7995A.0201. GOVERNING BODY; TERMS. (a) The district
4 is governed by a board of five elected directors.

5 (b) Except as provided by Section 7995A.0202, directors
6 serve staggered four-year terms.

7 Sec. 7995A.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Frank Bertlilino;

10 (2) Roel Badillo;

11 (3) Ryan Burns;

12 (4) Justin Spears; and

13 (5) Campbell Anderson.

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

15 (1) the date permanent directors are elected under
16 Section 7995A.0103; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 7995A.0103 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 7995A.0103; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

1 (d) If Subsection (c) applies, the owner or owners of a
2 majority of the assessed value of the real property in the district
3 may submit a petition to the commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 7995A.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 7995A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 7995A.0303. AUTHORITY FOR ROAD PROJECTS. Under
18 Section 52, Article III, Texas Constitution, the district may
19 design, acquire, construct, finance, issue bonds for, improve,
20 operate, maintain, and convey to this state, a county, or a
21 municipality for operation and maintenance macadamized, graveled,
22 or paved roads, or improvements, including storm drainage, in aid
23 of those roads.

24 Sec. 7995A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road project is located.

2 (b) If a road project is not located in the corporate limits
3 or extraterritorial jurisdiction of a municipality, the road
4 project must meet all applicable construction standards,
5 subdivision requirements, and regulations of each county in which
6 the road project is located.

7 (c) If the state will maintain and operate the road, the
8 Texas Transportation Commission must approve the plans and
9 specifications of the road project.

10 Sec. 7995A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
11 ORDINANCE OR RESOLUTION. The district shall comply with all
12 applicable requirements of any ordinance or resolution that is
13 adopted under Section 54.016 or 54.0165, Water Code, and that
14 consents to the creation of the district or to the inclusion of land
15 in the district.

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 7995A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
18 The district may issue, without an election, bonds and other
19 obligations secured by:

- 20 (1) revenue other than ad valorem taxes; or
21 (2) contract payments described by Section
22 7995A.0403.

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

27 (c) The district may not issue bonds payable from ad valorem

1 taxes to finance a road project unless the issuance is approved by a
2 vote of a two-thirds majority of the district voters voting at an
3 election held for that purpose.

4 Sec. 7995A.0402. OPERATION AND MAINTENANCE TAX. (a) If
5 authorized at an election held under Section 7995A.0401, the
6 district may impose an operation and maintenance tax on taxable
7 property in the district in accordance with Section 49.107, Water
8 Code.

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

11 Sec. 7995A.0403. CONTRACT TAXES. (a) In accordance with
12 Section 49.108, Water Code, the district may impose a tax other than
13 an operation and maintenance tax and use the revenue derived from
14 the tax to make payments under a contract after the provisions of
15 the contract have been approved by a majority of the district voters
16 voting at an election held for that purpose.

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

20 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

21 Sec. 7995A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
22 OBLIGATIONS. The district may issue bonds or other obligations
23 payable wholly or partly from ad valorem taxes, impact fees,
24 revenue, contract payments, grants, or other district money, or any
25 combination of those sources, to pay for any authorized district
26 purpose.

27 Sec. 7995A.0502. TAXES FOR BONDS. At the time the district

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

6 Sec. 7995A.0503. BONDS FOR ROAD PROJECTS. At the time of
7 issuance, the total principal amount of bonds or other obligations
8 issued or incurred to finance road projects and payable from ad
9 valorem taxes may not exceed one-fourth of the assessed value of the
10 real property in the district.

11 SECTION 2. The Waller County Municipal Utility District
12 No. 52 initially includes all the territory contained in the
13 following area:

14 Being a tract of land containing 381.279 acres (16,301,720
15 square feet) located in a portion of the J.P. Grigsby Survey,
16 Abstract Number (No.) 132, the Jacob Taylor Survey Abstract (No.)
17 268, and the Ambrose Powell Survey Abstract (No.) 239, in Waller
18 County Texas; Said 381.279 acre tract being all of a called 374.2356
19 acre tract recorded in the name of Maple Reserve, LLC, under Waller
20 County Clerk File (W.C.C.F.) No. 2209021, and also all of a called
21 7.0393 acre tract in the name of Maple Reserve Square, LLC, under
22 W.C.C.F. No. 2209024, said 381.279 acre tract being more
23 particularly described by metes and bounds as follows, (all
24 bearings are based on the Texas Coordinate System of 1983 (NAD83),
25 South Central Zone, per GPS observations):

26 BEGINNING at the northeast corner of a called 13.4394 acre
27 tract, recorded in the name of Rebecca Lynn Scansy under W.C.C.F.

1 No. 1207072 and being on the South Right-Of-Way (ROW) of Mayer Road
2 (60' foot public ROW) recorded in Waller County Deed Record
3 (W.C.D.R.) Vol. 161, Pg. 327), being the Northwest corner of said
4 374.2356 acre tract, and being the Northwest corner of herein
5 described tract;

6 THENCE, with the line common to said 374.2356 acre tract,
7 said 7.0393 acre tract, and said South ROW of said Mayer Road, and
8 the herein described tract the following two (2) courses;

9 1. North 86 degrees 32 minutes 04 seconds East, a distance
10 of 1907.71 feet to an angle point in the herein described tract;

11 2. North 86 degrees 22 minutes 23 seconds East, a distance
12 of 1519.88 feet to the northeast corner of said 7.0393 acre tract,
13 being the northeast corner of herein described tract, and also
14 being the intersection with the West ROW of FM 362 (80' foot public
15 ROW) recorded in W.C.D.R. Vol. 34, Pg. 7 and Vol. 116, Pg. 443;

16 THENCE, with the line common to said 374.2356 acre tract,
17 said 7.0393 acre tract, said west ROW of FM 362, and the herein
18 described tract the following seven (7) courses:

19 1. South 28 degrees 26 minutes 15 seconds East, a distance
20 of 274.91 feet to the beginning of a curve to the right;

21 2. 510.54 feet along the arc of said curve to the right
22 having a radius of 1105.92 feet, a central angle of 26 degrees 27
23 minutes 01 seconds, and a chord that bears South 15 degrees 12
24 minutes 45 seconds East, a distance of 506.02 feet to an angle point
25 in the herein described tract;

26 3. South 01 degrees 59 minutes 15 seconds East, a distance
27 of 475.20 feet to an angle point in the herein described tract;

1 4. South 02 degrees 34 minutes 15 seconds East, a distance
2 of 1707.22 feet to an angle point in the herein described tract;

3 5. South 02 degrees 36 minutes 15 seconds East, a distance
4 of 1149.31 feet to an angle point at the beginning of a curve to the
5 left;

6 6. 156.16 feet along the arc of said curve to the left having
7 a radius of 560.87 feet, a central angle of 15 degrees 57 minutes 11
8 seconds, and a chord that bears South 10 degrees 34 minutes 51
9 seconds East, a distance of 155.66 feet to an angle point in the
10 herein described tract;

11 7. South 02 degrees 22 minutes 17 seconds East, a distance
12 of 340.27 feet to an angle point in the north R.O.W. of Flukinger
13 Road (50' Public R.O.W.) recorded in W.C.D.R. Vol. 252, Pg. 297 and
14 Vol. 392, Pg. 670 and being the southeast corner of herein described
15 tract;

16 THENCE, along the line common to said 374.236 acre tract and
17 the North R.O.W. of Flukinger Road, and the herein described tract
18 the following two (2) courses:

19 1. South 86 degrees 30 minutes 34 seconds West, a distance
20 of 1771.42 feet to an angle point in the herein described tract;

21 2. South 86 degrees 11 minutes 28 seconds West, a distance
22 of 1615.33 feet to an angle point in the easterly boundary line of a
23 called 15.000 acre tract recorded in the name of Shirley L. Russ
24 under the W.C.D.R. Vol 257, Pg. 60, and being the most southerly
25 Southwest corner of the herein described tract;

26 THENCE, with the line common to said 15.000 acre tract, and
27 the herein described tract the following two (2) courses;

1 1. North 05 degrees 29 minutes 48 seconds East, a distance
2 of 254.70 feet to the northeast corner of said 15.000 acre tract,
3 and an angle point in the herein described tract;

4 2. South 89 degrees 51 minutes 06 seconds West, a distance
5 of 350.34 feet along the northern boundary line of said 15.000 acre
6 tract to an angle point in the eastern boundary line of a called
7 16.000 acre tract recorded in the name of Connie C. Hatfield under
8 the W.C.C.F. No. 808499 and the southwest corner of herein
9 described tract;

10 THENCE, with the line common to said 16.000 acre tract, a
11 called 4.000 acre tract recorded in the name of Connie C. Hatfield,
12 under the W.C.C.F. No. 808499 and the herein described tract, North
13 01 degrees 47 minutes 18 seconds West, a distance of 1300.37 feet to
14 an angle point in the herein described tract;

15 THENCE, with the line common to said 16.000 acre tract, the
16 herein described tract, a called 7.8444 acre tract recorded in the
17 name of Patricia Louise Hudy, under the W.C.C.F. No. 1207073, and a
18 called 13.438 acre tract recorded in the name of Ashley Sue Durfee,
19 under the W.C.C.F. No. 1207075, of said 13.438 acre tract North 02
20 degrees 24 minutes 28 seconds West a distance of 3005.54 feet to the
21 POINT OF BEGINNING, containing 381.279 acres of land.

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

1 Government Code.

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

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

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

13 SECTION 4. (a) If this Act does not receive a two-thirds
14 vote of all the members elected to each house, Subchapter C, Chapter
15 7995A, Special District Local Laws Code, as added by Section 1 of
16 this Act, is amended by adding Section 7995A.0306 to read as
17 follows:

18 Sec. 7995A.0306. NO EMINENT DOMAIN POWER. The district may
19 not exercise the power of eminent domain.

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

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