

1-1 By: Kitzman (Senate Sponsor - Kolkhorst) H.B. No. 5390
 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 Waller County Municipal Utility
 1-20 District No. 52; 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 7995A to read as follows:

1-26 CHAPTER 7995A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 52
 1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7995A.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 Waller County Municipal
 1-34 Utility District No. 52.

1-35 Sec. 7995A.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. 7995A.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. 7995A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-43 temporary directors may not hold an election under Section
 1-44 7995A.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.

1-48 Sec. 7995A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-49 (a) The district is created to serve a public purpose and benefit.
 1-50 (b) The district is created to accomplish the purposes of:

1-51 (1) a municipal utility district as provided by
 1-52 general law and Section 59, Article XVI, Texas Constitution; and
 1-53 (2) Section 52, Article III, Texas Constitution, that
 1-54 relate to the construction, acquisition, improvement, operation,
 1-55 or maintenance of macadamized, graveled, or paved roads, or
 1-56 improvements, including storm drainage, in aid of those roads.

1-57 Sec. 7995A.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-58 district is initially composed of the territory described by
 1-59 Section 2 of the Act enacting this chapter.

1-60 (b) The boundaries and field notes contained in Section 2 of
 1-61 the Act enacting this chapter form a closure. A mistake made in the

2-1 field notes or in copying the field notes in the legislative process
 2-2 does not affect the district's:

- 2-3 (1) organization, existence, or validity;
 2-4 (2) right to issue any type of bond for the purposes
 2-5 for which the district is created or to pay the principal of and
 2-6 interest on a bond;
 2-7 (3) right to impose a tax; or
 2-8 (4) legality or operation.

2-9 SUBCHAPTER B. BOARD OF DIRECTORS

2-10 Sec. 7995A.0201. GOVERNING BODY; TERMS. (a) The district
 2-11 is governed by a board of five elected directors.

2-12 (b) Except as provided by Section 7995A.0202, directors
 2-13 serve staggered four-year terms.

2-14 Sec. 7995A.0202. TEMPORARY DIRECTORS. (a) The temporary
 2-15 board consists of:

2-16 (1) Frank Bertlilino;

2-17 (2) Roel Badillo;

2-18 (3) Ryan Burns;

2-19 (4) Justin Spears; and

2-20 (5) Campbell Anderson.

2-21 (b) Temporary directors serve until the earlier of:

2-22 (1) the date permanent directors are elected under
 2-23 Section 7995A.0103; or

2-24 (2) the fourth anniversary of the effective date of
 2-25 the Act enacting this chapter.

2-26 (c) If permanent directors have not been elected under
 2-27 Section 7995A.0103 and the terms of the temporary directors have
 2-28 expired, successor temporary directors shall be appointed or
 2-29 reappointed as provided by Subsection (d) to serve terms that
 2-30 expire on the earlier of:

2-31 (1) the date permanent directors are elected under
 2-32 Section 7995A.0103; or

2-33 (2) the fourth anniversary of the date of the
 2-34 appointment or reappointment.

2-35 (d) If Subsection (c) applies, the owner or owners of a
 2-36 majority of the assessed value of the real property in the district
 2-37 may submit a petition to the commission requesting that the
 2-38 commission appoint as successor temporary directors the five
 2-39 persons named in the petition. The commission shall appoint as
 2-40 successor temporary directors the five persons named in the
 2-41 petition.

2-42 SUBCHAPTER C. POWERS AND DUTIES

2-43 Sec. 7995A.0301. GENERAL POWERS AND DUTIES. The district
 2-44 has the powers and duties necessary to accomplish the purposes for
 2-45 which the district is created.

2-46 Sec. 7995A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
 2-47 DUTIES. The district has the powers and duties provided by the
 2-48 general law of this state, including Chapters 49 and 54, Water Code,
 2-49 applicable to municipal utility districts created under Section 59,
 2-50 Article XVI, Texas Constitution.

2-51 Sec. 7995A.0303. AUTHORITY FOR ROAD PROJECTS. Under
 2-52 Section 52, Article III, Texas Constitution, the district may
 2-53 design, acquire, construct, finance, issue bonds for, improve,
 2-54 operate, maintain, and convey to this state, a county, or a
 2-55 municipality for operation and maintenance macadamized, graveled,
 2-56 or paved roads, or improvements, including storm drainage, in aid
 2-57 of those roads.

2-58 Sec. 7995A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-59 road project must meet all applicable construction standards,
 2-60 zoning and subdivision requirements, and regulations of each
 2-61 municipality in whose corporate limits or extraterritorial
 2-62 jurisdiction the road project is located.

2-63 (b) If a road project is not located in the corporate limits
 2-64 or extraterritorial jurisdiction of a municipality, the road
 2-65 project must meet all applicable construction standards,
 2-66 subdivision requirements, and regulations of each county in which
 2-67 the road project is located.

2-68 (c) If the state will maintain and operate the road, the
 2-69 Texas Transportation Commission must approve the plans and

3-1 specifications of the road project.
 3-2 Sec. 7995A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
 3-3 ORDINANCE OR RESOLUTION. The district shall comply with all
 3-4 applicable requirements of any ordinance or resolution that is
 3-5 adopted under Section 54.016 or 54.0165, Water Code, and that
 3-6 consents to the creation of the district or to the inclusion of land
 3-7 in the district.

3-8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-9 Sec. 7995A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
 3-10 The district may issue, without an election, bonds and other
 3-11 obligations secured by:

3-12 (1) revenue other than ad valorem taxes; or
 3-13 (2) contract payments described by Section
 3-14 7995A.0403.

3-15 (b) The district must hold an election in the manner
 3-16 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-17 before the district may impose an ad valorem tax or issue bonds
 3-18 payable from ad valorem taxes.

3-19 (c) The district may not issue bonds payable from ad valorem
 3-20 taxes to finance a road project unless the issuance is approved by a
 3-21 vote of a two-thirds majority of the district voters voting at an
 3-22 election held for that purpose.

3-23 Sec. 7995A.0402. OPERATION AND MAINTENANCE TAX. (a) If
 3-24 authorized at an election held under Section 7995A.0401, the
 3-25 district may impose an operation and maintenance tax on taxable
 3-26 property in the district in accordance with Section 49.107, Water
 3-27 Code.

3-28 (b) The board shall determine the tax rate. The rate may not
 3-29 exceed the rate approved at the election.

3-30 Sec. 7995A.0403. CONTRACT TAXES. (a) In accordance with
 3-31 Section 49.108, Water Code, the district may impose a tax other than
 3-32 an operation and maintenance tax and use the revenue derived from
 3-33 the tax to make payments under a contract after the provisions of
 3-34 the contract have been approved by a majority of the district voters
 3-35 voting at an election held for that purpose.

3-36 (b) A contract approved by the district voters may contain a
 3-37 provision stating that the contract may be modified or amended by
 3-38 the board without further voter approval.

3-39 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-40 Sec. 7995A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 3-41 OBLIGATIONS. The district may issue bonds or other obligations
 3-42 payable wholly or partly from ad valorem taxes, impact fees,
 3-43 revenue, contract payments, grants, or other district money, or any
 3-44 combination of those sources, to pay for any authorized district
 3-45 purpose.

3-46 Sec. 7995A.0502. TAXES FOR BONDS. At the time the district
 3-47 issues bonds payable wholly or partly from ad valorem taxes, the
 3-48 board shall provide for the annual imposition of a continuing
 3-49 direct ad valorem tax, without limit as to rate or amount, while all
 3-50 or part of the bonds are outstanding as required and in the manner
 3-51 provided by Sections 54.601 and 54.602, Water Code.

3-52 Sec. 7995A.0503. BONDS FOR ROAD PROJECTS. At the time of
 3-53 issuance, the total principal amount of bonds or other obligations
 3-54 issued or incurred to finance road projects and payable from ad
 3-55 valorem taxes may not exceed one-fourth of the assessed value of the
 3-56 real property in the district.

3-57 SECTION 2. The Waller County Municipal Utility District
 3-58 No. 52 initially includes all the territory contained in the
 3-59 following area:

3-60 Being a tract of land containing 381.279 acres (16,301,720
 3-61 square feet) located in a portion of the J.P. Grigsby Survey,
 3-62 Abstract Number (No.) 132, the Jacob Taylor Survey Abstract (No.)
 3-63 268, and the Ambrose Powell Survey Abstract (No.) 239, in Waller
 3-64 County Texas; Said 381.279 acre tract being all of a called 374.2356
 3-65 acre tract recorded in the name of Maple Reserve, LLC, under Waller
 3-66 County Clerk File (W.C.C.F.) No. 2209021, and also all of a called
 3-67 7.0393 acre tract in the name of Maple Reserve Square, LLC, under
 3-68 W.C.C.F. No. 2209024, said 381.279 acre tract being more
 3-69 particularly described by metes and bounds as follows, (all

4-1 bearings are based on the Texas Coordinate System of 1983 (NAD83),
 4-2 South Central Zone, per GPS observations):

4-3 BEGINNING at the northeast corner of a called 13.4394 acre
 4-4 tract, recorded in the name of Rebecca Lynn Scansy under W.C.C.F.
 4-5 No. 1207072 and being on the South Right-Of-Way (ROW) of Mayer Road
 4-6 (60' foot public ROW) recorded in Waller County Deed Record
 4-7 (W.C.D.R.) Vol. 161, Pg. 327), being the Northwest corner of said
 4-8 374.2356 acre tract, and being the Northwest corner of herein
 4-9 described tract;

4-10 THENCE, with the line common to said 374.2356 acre tract,
 4-11 said 7.0393 acre tract, and said South ROW of said Mayer Road, and
 4-12 the herein described tract the following two (2) courses;

4-13 1. North 86 degrees 32 minutes 04 seconds East, a distance
 4-14 of 1907.71 feet to an angle point in the herein described tract;

4-15 2. North 86 degrees 22 minutes 23 seconds East, a distance
 4-16 of 1519.88 feet to the northeast corner of said 7.0393 acre tract,
 4-17 being the northeast corner of herein described tract, and also
 4-18 being the intersection with the West ROW of FM 362 (80' foot public
 4-19 ROW) recorded in W.C.D.R. Vol. 34, Pg. 7 and Vol. 116, Pg. 443;

4-20 THENCE, with the line common to said 374.2356 acre tract,
 4-21 said 7.0393 acre tract, said west ROW of FM 362, and the herein
 4-22 described tract the following seven (7) courses:

4-23 1. South 28 degrees 26 minutes 15 seconds East, a distance
 4-24 of 274.91 feet to the beginning of a curve to the right;

4-25 2. 510.54 feet along the arc of said curve to the right
 4-26 having a radius of 1105.92 feet, a central angle of 26 degrees 27
 4-27 minutes 01 seconds, and a chord that bears South 15 degrees 12
 4-28 minutes 45 seconds East, a distance of 506.02 feet to an angle point
 4-29 in the herein described tract;

4-30 3. South 01 degrees 59 minutes 15 seconds East, a distance
 4-31 of 475.20 feet to an angle point in the herein described tract;

4-32 4. South 02 degrees 34 minutes 15 seconds East, a distance
 4-33 of 1707.22 feet to an angle point in the herein described tract;

4-34 5. South 02 degrees 36 minutes 15 seconds East, a distance
 4-35 of 1149.31 feet to an angle point at the beginning of a curve to the
 4-36 left;

4-37 6. 156.16 feet along the arc of said curve to the left having
 4-38 a radius of 560.87 feet, a central angle of 15 degrees 57 minutes 11
 4-39 seconds, and a chord that bears South 10 degrees 34 minutes 51
 4-40 seconds East, a distance of 155.66 feet to an angle point in the
 4-41 herein described tract;

4-42 7. South 02 degrees 22 minutes 17 seconds East, a distance
 4-43 of 340.27 feet to an angle point in the north R.O.W. of Flukinger
 4-44 Road (50' Public R.O.W.) recorded in W.C.D.R. Vol. 252, Pg. 297 and
 4-45 Vol. 392, Pg. 670 and being the southeast corner of herein described
 4-46 tract;

4-47 THENCE, along the line common to said 374.236 acre tract and
 4-48 the North R.O.W. of Flukinger Road, and the herein described tract
 4-49 the following two (2) courses:

4-50 1. South 86 degrees 30 minutes 34 seconds West, a distance
 4-51 of 1771.42 feet to an angle point in the herein described tract;

4-52 2. South 86 degrees 11 minutes 28 seconds West, a distance
 4-53 of 1615.33 feet to an angle point in the easterly boundary line of a
 4-54 called 15.000 acre tract recorded in the name of Shirley L. Russ
 4-55 under the W.C.D.R. Vol 257, Pg. 60, and being the most southerly
 4-56 Southwest corner of the herein described tract;

4-57 THENCE, with the line common to said 15.000 acre tract, and
 4-58 the herein described tract the following two (2) courses;

4-59 1. North 05 degrees 29 minutes 48 seconds East, a distance
 4-60 of 254.70 feet to the northeast corner of said 15.000 acre tract,
 4-61 and an angle point in the herein described tract;

4-62 2. South 89 degrees 51 minutes 06 seconds West, a distance
 4-63 of 350.34 feet along the northern boundary line of said 15.000 acre
 4-64 tract to an angle point in the eastern boundary line of a called
 4-65 16.000 acre tract recorded in the name of Connie C. Hatfield under
 4-66 the W.C.C.F. No. 808499 and the southwest corner of herein
 4-67 described tract;

4-68 THENCE, with the line common to said 16.000 acre tract, a
 4-69 called 4.000 acre tract recorded in the name of Connie C. Hatfield,

5-1 under the W.C.C.F. No. 808499 and the herein described tract, North
5-2 01 degrees 47 minutes 18 seconds West, a distance of 1300.37 feet to
5-3 an angle point in the herein described tract;

5-4 THENCE, with the line common to said 16.000 acre tract, the
5-5 herein described tract, a called 7.8444 acre tract recorded in the
5-6 name of Patricia Louise Hudy, under the W.C.C.F. No. 1207073, and a
5-7 called 13.438 acre tract recorded in the name of Ashley Sue Durfee,
5-8 under the W.C.C.F. No. 1207075, of said 13.438 acre tract North 02
5-9 degrees 24 minutes 28 seconds West a distance of 3005.54 feet to the
5-10 POINT OF BEGINNING, containing 381.279 acres of land.

5-11 SECTION 3. (a) The legal notice of the intention to
5-12 introduce this Act, setting forth the general substance of this
5-13 Act, has been published as provided by law, and the notice and a
5-14 copy of this Act have been furnished to all persons, agencies,
5-15 officials, or entities to which they are required to be furnished
5-16 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-17 Government Code.

5-18 (b) The governor, one of the required recipients, has
5-19 submitted the notice and Act to the Texas Commission on
5-20 Environmental Quality.

5-21 (c) The Texas Commission on Environmental Quality has filed
5-22 its recommendations relating to this Act with the governor, the
5-23 lieutenant governor, and the speaker of the house of
5-24 representatives within the required time.

5-25 (d) All requirements of the constitution and laws of this
5-26 state and the rules and procedures of the legislature with respect
5-27 to the notice, introduction, and passage of this Act are fulfilled
5-28 and accomplished.

5-29 SECTION 4. (a) If this Act does not receive a two-thirds
5-30 vote of all the members elected to each house, Subchapter C, Chapter
5-31 7995A, Special District Local Laws Code, as added by Section 1 of
5-32 this Act, is amended by adding Section 7995A.0306 to read as
5-33 follows:

5-34 Sec. 7995A.0306. NO EMINENT DOMAIN POWER. The district may
5-35 not exercise the power of eminent domain.

5-36 (b) This section is not intended to be an expression of a
5-37 legislative interpretation of the requirements of Section 17(c),
5-38 Article I, Texas Constitution.

5-39 SECTION 5. This Act takes effect immediately if it receives
5-40 a vote of two-thirds of all the members elected to each house, as
5-41 provided by Section 39, Article III, Texas Constitution. If this
5-42 Act does not receive the vote necessary for immediate effect, this
5-43 Act takes effect September 1, 2023.

5-44 * * * * *