

By: Smith

H.B. No. 5407

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Blanton Creek Estates Municipal Utility District of Fannin County; 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 8009A to read as follows:

CHAPTER 8009A. BLANTON CREEK ESTATES MUNICIPAL UTILITY DISTRICT OF FANNIN COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8009A.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 Blanton Creek Estates Municipal Utility District of Fannin County.

Sec. 8009A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8009A.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

1 directors as provided by Section 49.102, Water Code.

2 Sec. 8009A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 8009A.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 8009A.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. 8009A.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. 8009A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 8009A.0202, directors
7 serve staggered four-year terms.

8 Sec. 8009A.0202. TEMPORARY DIRECTORS. (a) The temporary
9 board consists of:

10 (1) Jonathan Nunn;

11 (2) Jon Anderson;

12 (3) Cody Hancock;

13 (4) Danny Green; and

14 (5) Chad Purser.

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

16 (1) the date permanent directors are elected under
17 Section 8009A.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 8009A.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 8009A.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. 8009A.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. 8009A.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. 8009A.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. 8009A.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. 8009A.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. 8009A.0306. DIVISION OF DISTRICT. (a) The district
18 may be divided into two or more new districts only if the district:

19 (1) has no outstanding bonded debt; and

20 (2) is not imposing ad valorem taxes.

21 (b) This chapter applies to any new district created by the
22 division of the district, and a new district has all the powers and
23 duties of the district.

24 (c) A new district created by the division of the district
25 may not, at the time the new district is created, contain any land
26 outside the area described by Section 2 of the Act enacting this
27 chapter.

1 (d) The board, on its own motion or on receipt of a petition
2 signed by the owner or owners of a majority of the assessed value of
3 the real property in the district, may adopt an order dividing the
4 district.

5 (e) The board may adopt an order dividing the district
6 before or after the date the board holds an election under Section
7 8009A.0103 to confirm the district's creation.

8 (f) An order dividing the district must:

9 (1) name each new district;

10 (2) include the metes and bounds description of the
11 territory of each new district;

12 (3) appoint temporary directors for each new district;

13 and

14 (4) provide for the division of assets and liabilities
15 between or among the new districts.

16 (g) On or before the 30th day after the date of adoption of
17 an order dividing the district, the district shall file the order
18 with the commission and record the order in the real property
19 records of each county in which the district is located.

20 (h) Any new district created by the division of the district
21 shall hold a confirmation and directors' election as required by
22 Section 8009A.0103. If the voters of a new district do not confirm
23 the creation of the new district, the assets, obligations,
24 territory, and governance of the new district revert to the
25 original district.

26 (i) 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 (j) Municipal consent to the creation of the district and to
4 the inclusion of land in the district granted under Section
5 8009A.0104 acts as municipal consent to the creation of any new
6 district created by the division of the district and to the
7 inclusion of land in the new district.

8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

9 Sec. 8009A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)

10 The district may issue, without an election, bonds and other
11 obligations secured by:

12 (1) revenue other than ad valorem taxes; or

13 (2) contract payments described by Section
14 8009A.0403.

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

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

23 Sec. 8009A.0402. OPERATION AND MAINTENANCE TAX. (a) If

24 authorized at an election held under Section 8009A.0401, the
25 district may impose an operation and maintenance tax on taxable
26 property in the district in accordance with Section 49.107, Water
27 Code.

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

3 Sec. 8009A.0403. CONTRACT TAXES. (a) In accordance with
4 Section 49.108, Water Code, the district may impose a tax other than
5 an operation and maintenance tax and use the revenue derived from
6 the tax to make payments under a contract after the provisions of
7 the contract have been approved by a majority of the district voters
8 voting at an election held for that purpose.

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

12 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

13 Sec. 8009A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
14 OBLIGATIONS. The district may issue bonds or other obligations
15 payable wholly or partly from ad valorem taxes, impact fees,
16 revenue, contract payments, grants, or other district money, or any
17 combination of those sources, to pay for any authorized district
18 purpose.

19 Sec. 8009A.0502. TAXES FOR BONDS. At the time the district
20 issues bonds payable wholly or partly from ad valorem taxes, the
21 board shall provide for the annual imposition of a continuing
22 direct ad valorem tax, without limit as to rate or amount, while all
23 or part of the bonds are outstanding as required and in the manner
24 provided by Sections 54.601 and 54.602, Water Code.

25 Sec. 8009A.0503. BONDS FOR ROAD PROJECTS. At the time of
26 issuance, the total principal amount of bonds or other obligations
27 issued or incurred to finance road projects and payable from ad

1 valorem taxes may not exceed one-fourth of the assessed value of the
2 real property in the district.

3 SECTION 2. The Blanton Creek Estates Municipal Utility
4 District of Fannin County initially includes all the territory
5 contained in the following area:

6 Being: 101.697 acres of land, a part of the William C. Ingram Survey
7 Abstract Number 558, lying and being situated on the West side of
8 County Road 4515 and the North side of County Road 4516 in Fannin
9 County, Texas. The said 101.697 acre tract being all of a called
10 39.267 acre tract conveyed in a Warranty Deed with Vendor's Lien
11 from Ned Kempson and wife, Dorthaleen Kempson to Michael G. Placke
12 and wife, Kathryn L. Placke of record in Volume 1108, Page 143 in
13 the Official Public Records of Fannin County, Texas and being the
14 remainder of a called 89.056 acre tract conveyed in a Warranty Deed
15 with Vendor's Lien from James A. Reeves to Michael G. Placke and
16 wife, Kathryn L. Placke of record in Volume 1043, Page 1031 in the
17 Official Public Records of Fannin County, Texas. The said 101.697
18 acre tract being described more particularly by metes and bounds as
19 follows:

20 Beginning at a 1/2" found iron rod at the Southwest corner of the
21 referenced 39.267 acre parent tract, at the Northwest corner of Lot
22 11 of the Forest Glen Addition of record in Cabinet B, Slide 70 and
23 being in the East line of a called 31.026 acre tract conveyed to
24 Martin L. Pineda and Ana B. Urbina in Instrument Number 2021000468
25 for the Point of Beginning and the Southwest corner of this tract.

26 Thence: N 01°11'18" E a distance of 667.07 feet to a 1/2" found iron
27 rod for a corner of this tract, at a corner of the referenced 39.267

1 acre parent tract and being at a corner of the referenced Pineda
2 tract.

3 Thence: N 02°26'01" E passing a 1/2" found iron rod at a distance of
4 94.56 feet and continuing a total distance of 145.63 feet to a point
5 near the centerline of Blanton Creek for the Westernmost Northwest
6 corner of this tract, at the Northwest corner of the referenced
7 39.267 acre parent tract and being at the Northeast corner of the
8 referenced Pineda tract.

9 Thence: along 60 calls with the centerline of Blanton Creek (for
10 acreage purposes only) with the approximate courses and distances
11 as follows:

- | | |
|----------------------------------|-------------------------------|
| 12 1. S 65°28'31" E 38.41 feet | 2. N 66°56'15" E 32.60 feet |
| 13 3. N 06°16'43" W 67.93 feet | 4. N 21°59'41" E 54.39 feet |
| 14 5. N 50°15'39" E 43.62 feet | 6. N 85°29'04" E 50.02 feet |
| 15 7. N 53°41'14" E 52.36 feet | 8. N 01°11'31" W 51.84 feet |
| 16 9. N 33°32'34" E 77.42 feet | 10. S 82°46'56" E 43.91 feet |
| 17 11. S 43°00'39" E 34.27 feet | 12. N 76°11'35" E 45.65 feet |
| 18 13. N 05°48'07" W 66.08 feet | 14. N 08°00'19" E 32.36 feet |
| 19 15. N 68°56'29" E 61.61 feet | 16. N 43°08'28" E 36.43 feet |
| 20 17. N 08°13'39" W 54.13 feet | 18. N 13°21'52" E 29.92 feet |
| 21 19. S 83°21'57" E 76.85 feet | 20. N 09°55'55" E 157.75 feet |
| 22 21. N 21°45'12" E 50.94 feet | 22. S 78°19'18" E 60.68 feet |
| 23 23. S 12°01'44" E 50.81 feet | 24. S 33°01'59" E 37.29 feet |
| 24 25. N 69°27'32" E 30.84 feet | 26. N 53°31'46" E 68.20 feet |
| 25 27. N 69°47'02" E 129.13 feet | 28. N 25°47'33" E 109.60 feet |
| 26 29. S 77°12'16" E 38.96 feet | 30. N 49°55'58" E 30.42 feet |
| 27 31. N 24°15'55" W 85.55 feet | 32. N 08°35'00" E 38.80 feet |

- | | | | | |
|----|-----|---------------------------|-----|------------------------------|
| 1 | 33. | N 57°34'06" E 42.08 feet | 34. | S 73°30'35" E 94.34 feet |
| 2 | 35. | N 13°22'20" E 49.48 feet | 36. | N 65°32'59" E 53.70 feet |
| 3 | 37. | N 12°41'05" E 34.51 feet | 38. | N 03°01'56" W 65.45 feet |
| 4 | 39. | N 18°48'56" E 57.65 feet | 40. | N 34°35'40" E 64.36 feet |
| 5 | 41. | N 79°50'23" E 33.79 feet | 42. | S 44°33'02" E 56.49 feet |
| 6 | 43. | S 88°37'39" E 28.67 feet | 44. | N 45°24'16" E 49.64 feet |
| 7 | 45. | N 80°11'49" E 21.21 feet | 46. | S 60°56'21" E 36.44 feet |
| 8 | 47. | N 69°20'02" E 35.82 feet | 48. | N 21°27'14" E 48.89 feet |
| 9 | 49. | S 55°23'13" E 62.54 feet | 50. | S 02°27'49" E 53.31 feet |
| 10 | 51. | S 27°40'20" W 54.84 feet | 52. | S 11°46'24" E 23.29 feet |
| 11 | 53. | S 63°51'02" E 56.05 feet | 54. | N 68°31'08" E 33.59 feet |
| 12 | 55. | N 36°59'26" E 48.95 feet | 56. | N 54°46'37" E 86.42 feet |
| 13 | 57. | N 40°29'43" E 119.41 feet | 58. | N 04°15'19" W 19.48 feet |
| 14 | 59. | N 15°40'17" W 71.81 feet | 60. | N 62°21'03" E 185.19 feet to |

15 an "X" cut in the middle of a concrete bridge for the Northernmost
 16 Northeast corner of this tract, near the centerline of County Road
 17 4515, at the Northernmost Northeast corner of the referenced 89.056
 18 acre parent tract remainder and being at the Northwest corner of a
 19 called 18.200 acre Tract 8 conveyed to Diane Vestal Williams in
 20 Volume 1645, Page 384.

21 Thence: along 4 calls near the centerline of County Road 4515 with
 22 the approximate courses and distances as follows:

- | | | | | |
|----|----|---------------------------|----|------------------------------|
| 23 | 1. | S 45°36'41" E 327.78 feet | 2. | S 42°19'35" E 220.60 feet |
| 24 | 3. | S 40°13'44" E 601.16 feet | 4. | S 12°12'22" E 116.04 feet to |

25 a 1/2" set iron rod for an inside Northeast corner of this tract, at
 26 an inside Northeast corner of the referenced 89.056 acre parent
 27 tract remainder and being at the Northernmost Southwest corner of a

1 called 21.033 acre tract conveyed to Xiong Vang and wife, Maylee M.
2 Vang in Volume 1884, Page 434, from which a point near the
3 centerline of a creek at the Northeast corner of the referenced Vang
4 tract bears N 04°01'09" E a distance of 96.79 feet, continuing N
5 41°48'33" W a distance of 87.22 feet and N 56°38'33" E passing a 1/2"
6 found iron rod at a distance of 17.18 feet, continuing and passing a
7 found concrete monument at a distance of 1385.37 feet and
8 continuing a total distance of 1396.01 feet.

9 Thence: S 89°30'10" E a distance of 13.99 feet to a 1/2" set iron rod
10 on the East side of County Road 4515 for a Northeast corner of this
11 tract, at a Northeast corner of the referenced 89.056 acre parent
12 tract remainder and being at an inside Southwest corner of the
13 referenced Vang tract.

14 Thence: S 02°33'50" W a distance of 1267.85 feet to a 1/2" set iron
15 rod for an inside Northeast corner of this tract, at an inside
16 Northeast corner of the referenced 89.056 acre parent tract
17 remainder and being at the Southwest corner of a called 18.200 acre
18 tract conveyed to Gullian Louis in Volume 1021, Page 543.

19 Thence: S 89°28'04" E along the North side of County Road 4515 a
20 distance of 916.52 feet to a 1/2" set iron rod for the Easternmost
21 Northeast corner of this tract, at the Easternmost Northeast corner
22 of the referenced 89.056 acre parent tract remainder, at the
23 Southeast corner of the referenced Louis tract and being in the West
24 line of a called 18.08 acre tract conveyed to Joseph Charles Fetters
25 Jr and Marnie F Fetter in Volume 1330, Page 312, from which a 1/2"
26 found iron rod maintaining a witness monument at the Northwest
27 corner of the referenced Fetters tract bears N 00°55'36" W near the

1 centerline of a creek a distance of 1086.25 feet, continuing N
2 34°53'12" E near the centerline of a creek a distance of 27.96 and
3 continuing S 89°29'28" E a distance of 13.25 feet.

4 Thence: S 00°55'36" E a distance of 10.47 feet to a 1/2" set iron rod
5 near the centerline of County Road 4515 for the Easternmost
6 Southeast corner of this tract, at the Easternmost Southeast corner
7 of the referenced 89.056 acre parent tract remainder, at the
8 Southwest corner of the referenced Fetters tract and being in the
9 North line of a called 60.792 acre tract conveyed to Keith David
10 Welch in Volume 1541, Page 128, from which a 1/2" found iron rod
11 maintaining a witness monument for the Southeast corner of the
12 referenced Fetters tract bears S 89°15'28" E near the centerline of
13 County Road 4515 a distance of 687.16 feet and continuing N 44°16'18
14 W a distance of 36.00 feet.

15 Thence: N 89°15'45" W near the centerline of County Road 4515 a
16 distance of 918.91 feet to a point at the intersection of the
17 centerline of County Road 4515 and the centerline of County Road
18 4516 for a corner of this tract, for a corner of the referenced
19 89.056 acre parent tract remainder and being in the North line of a
20 called 40.000 acre tract conveyed to Brent Whitsell and spouse,
21 Julie A. Whitsell in Volume 2007, Page 26, from which a 1/2" found
22 iron rod bears S 13°00'19" W a distance of 4.95 feet.

23 Thence: N 89°54'42" W passing a 1/2" found iron rod at the Northeast
24 corner of a called 5.333 acre tract conveyed to Ian D. Buchanan and
25 Joyce Buchanan in Instrument Number 2021000718 at a distance of
26 621.62 feet and continuing a total distance of 1189.07 feet to a
27 pipe fence corner post for a corner of this tract, at the

1 Southernmost Southwest corner of the referenced 89.056 acre parent
2 tract remainder, being at the Southeast corner of the referenced
3 32.267 acre parent tract and being in the North line of the
4 referenced Buchanan tract.

5 Thence: WEST (Reference Bearing) passing a point at the Northwest
6 corner of the referenced Buchanan tract and the Northeast corner of
7 a called Lot 10R of the Replat of Lots 9 & 10 of the Forest Glen
8 Addition of record in Cabinet C, Slide 151 at a distance of 39.22
9 feet, from which a 1/2" found iron rod bears South 0.48 feet, and
10 continuing a total distance of 1436.72 feet to the Point of
11 Beginning and containing 101.697 acres of which 1.5 acres lays in a
12 public road.

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

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

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

27 (d) All requirements of the constitution and laws of this

1 state and the rules and procedures of the legislature with respect
2 to the notice, introduction, and passage of this Act are fulfilled
3 and accomplished.

4 SECTION 4. (a) If this Act does not receive a two-thirds
5 vote of all the members elected to each house, Subchapter C, Chapter
6 8009A, Special District Local Laws Code, as added by Section 1 of
7 this Act, is amended by adding Section 8009A.0307 to read as
8 follows:

9 Sec. 8009A.0307. NO EMINENT DOMAIN POWER. The district may
10 not exercise the power of eminent domain.

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

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