

By: Brown of Kaufman

H.B. No. 2533

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of Lake View Management and Development
3 District in Henderson County; providing authority to impose a tax
4 and issue bonds; granting the power of eminent domain.

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

6 SECTION 1. CREATION AND NAMING OF DISTRICT; CONTROLLING
7 LAW. (a) The Lake View Management and Development District is
8 created as a special district under Section 59, Article XVI, Texas
9 Constitution.

10 (b) The board by resolution may change the district's name.
11 The board shall give written notice of the change to the commission.

12 (c) The district is a unit of government for the purposes of
13 Chapter 101, Civil Practice and Remedies Code, and operations of
14 the district are considered to be essential governmental functions
15 and not proprietary functions for all purposes, including the
16 application of that chapter.

17 SECTION 2. DEFINITIONS. In this Act:

18 (1) "Board" means the board of directors of the
19 district.

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

22 (3) "District" means the Lake View Management and
23 Development District.

24 (4) "Improvement project" means a program or project

1 authorized by Section 15 of this Act, inside or outside the
2 boundaries of the district.

3 SECTION 3. BOUNDARIES. The district includes the land
4 located in Henderson County that is described and defined by metes
5 and bounds, as follows, to-wit:

6 BEING a 549.0 acre tract of land situated in the G. Martinez
7 Survey, Abstract No. 481, Henderson County, Texas, and being
8 comprised of nine (9) tracts of land as conveyed in six (6) deeds to
9 Long Cove Ranch Company as follows: (1) Parcel 10C and Parcel 10D
10 described as Tracts 10 C, 56.41 acres and 10 D, 54.86 acres in
11 Volume 2158, Page 001, Deed Records, Henderson County, Texas, (2)
12 Parcel 9 described as 140.0 acres in Volume 2143, Page 363, Deed
13 Records, Henderson County, Texas, (3) Parcel 8 described as 100.0
14 acres in Volume 2030, Page 555, Deed Records, Henderson County,
15 Texas, (4) Parcel 7 described as 40.72 acres in Volume 2030, Page
16 541, Deed Records, Henderson County, Texas, (5) Parcels 6A, 6B, and
17 6D described as 11.064 acres, 44.317 acres and 61.686 acres tracts
18 respectively in Volume 1960, Page 595, Deed Records, Henderson
19 County, Texas, and (6) portion of Parcel 4, the easterly 40 acres
20 of the first tract described in Volume 1769, Page 768, Deed Records,
21 Henderson County, Texas, and being more particularly described as
22 follows:

23 BEGINNING at the intersection of the north line of Parcel 8
24 with the deeded 325 foot elevation take line of Cedar Creek Lake;

25 THENCE North 89 degrees 23 minutes 11 seconds East, along the
26 north line of Parcel 8, called the north line of Martinez Survey
27 and the south line of Thomas Caro Survey, a distance of 654.83 feet

1 to the northeast corner of said Parcel 8 and the northwest corner of
2 Parcel 10C;

3 THENCE North 89 degrees 46 minutes 07 seconds East, along the
4 north line of Parcel 10C, called the north line of said Martinez
5 Survey, a distance of 1,203.86 feet to the northeast corner of said
6 Parcel 10C;

7 THENCE South 00 degrees 47 minutes 49 seconds West, along the
8 east line of Parcel 10 C, a distance of 2,418.84 feet to the
9 southeast corner of said Parcel 10C;

10 THENCE South 88 degrees 14 minutes 18 seconds West, along the
11 south line of Parcel 10 C, a distance of 1,175.96 feet to the
12 southeast corner of Parcel 8;

13 THENCE South 88 degrees 53 minutes 14 seconds West, along the
14 south line of Parcel 8, a distance of 1,254.61 feet to a point in the
15 east line of Parcel 10D;

16 THENCE South 00 degrees 06 minutes 04 seconds East, along the
17 east line of Parcel 10 C, a distance of 348.17 feet to the southeast
18 corner of said Parcel 10 C and the northeast corner of Parcel 9;

19 THENCE South 00 degrees 06 minutes 04 seconds East, along the
20 east line of Parcel 9, a distance of 2,520.78 feet to the southeast
21 corner of said Parcel 9;

22 THENCE North 89 degrees 49 minutes 16 seconds West, along the
23 south line of Parcel 9, a distance of 2,689.08 feet to the southwest
24 corner of said Parcel 9 in the east line of Parcel 6 D;

25 THENCE South 00 degrees 33 minutes 24 seconds West, along the
26 east line of Parcel 6 D, a distance of 51.64 feet to an angle point
27 in said east line;

1 THENCE South 00 degrees 25 minutes 27 seconds East,
2 continuing along the east line of Parcel 6 D, a distance of 1,844.44
3 feet to the southeast corner of said Parcel 6 D;

4 THENCE South 88 degrees 23 minutes 18 seconds West, along the
5 south line of Parcel 6 D, a distance of 1,534.22 feet to southwest
6 corner of said Parcel 6 D and the southeast corner of Parcel 4;

7 THENCE North 00 degrees 02 minutes 41 seconds East, crossing
8 Parcel 4, a distance of 2,918.36 feet to the deeded 325 foot
9 elevation take line of Cedar Creek Lake;

10 THENCE generally in a northeasterly direction with it's
11 meanders along the deeded 325 foot elevation take line of Cedar
12 Creek Lake to the PLACE OF BEGINNING and containing 549.0 acres of
13 land more or less.

14 SECTION 4. FINDINGS RELATING TO BOUNDARIES. The boundaries
15 of the district form a closure. A mistake in the name or spelling of
16 a party to a deed or to the page or volume where filed in the deed
17 records of Henderson County, or in the name of a survey or abstract,
18 does not affect:

19 (1) the district's organization, existence, or
20 validity;

21 (2) the district's right to enter into any type of
22 contract for the purposes for which the district is created;

23 (3) the district's right to impose, assess, or collect
24 taxes, fees, or charges; or

25 (4) the operation of the board or the district.

26 SECTION 5. LEGISLATIVE DECLARATIONS AND FINDINGS. (a) The
27 legislature finds that all of the land and other property included

1 in the district will benefit from the improvement projects and
2 services to be accomplished by the district under powers conferred
3 by Sections 52 and 52a, Article III, and Section 59, Article XVI,
4 Texas Constitution, and the other powers granted under this Act,
5 and the creation of the district is essential to accomplish the
6 purposes of those provisions and to accomplish the other public
7 purposes stated in this Act.

8 (b) The legislature further finds that the creation of the
9 district:

10 (1) is essential to the conservation and beneficial
11 use of the water, land, soil, and other natural resources in or
12 adjacent to the district;

13 (2) is essential to further the public purposes of the
14 economic development and diversification of the state, the
15 elimination of unemployment and underemployment, and the
16 stimulation and development of transportation and commerce;

17 (3) will promote the health, safety, and general
18 welfare of residents, employers, employees, and consumers in the
19 district and in Henderson County and of the public; and

20 (4) is in the public interest.

21 (c) The district's operations and the district's
22 improvement projects will enable the district to preserve,
23 maintain, and enhance the economic health and vitality of the area
24 in the district as a community, residential, recreational,
25 business, and commerce center. The district will further promote
26 the health, safety, welfare, education, convenience, and enjoyment
27 of the public by improving, landscaping, and developing certain

1 areas in and adjacent to the district and providing public services
2 and facilities in and adjacent to the district that are necessary
3 for the restoration, preservation, enhancement, and enjoyment of
4 scenic beauty.

5 SECTION 6. CONSTRUCTION OF ACT. (a) This Act shall be
6 liberally construed in conformity with the findings and purposes
7 stated in this Act.

8 (b) Chapter 311, Government Code, applies to this Act.

9 SECTION 7. GENERAL POWERS AND DUTIES. (a) The district has
10 all of the powers and duties provided by the following:

11 (1) the general laws relating to conservation and
12 reclamation districts created under Section 59, Article XVI, Texas
13 Constitution, including Chapters 49 and 54, Water Code, except that
14 the district's bonds and other securities are not subject to the
15 jurisdiction or supervision of the commission under Chapter 49,
16 Water Code, or other law;

17 (2) the general laws relating to road districts and
18 road utility districts created under Section 52(b), Article III,
19 Texas Constitution, including Chapter 441, Transportation Code;

20 (3) Chapter 375, Local Government Code; and

21 (4) Section 4B, Development Corporation Act of 1979
22 (Article 5190.6, Vernon's Texas Civil Statutes).

23 (b) A provision of this Act prevails over a provision of the
24 general law that is in conflict or inconsistent with this Act.

25 SECTION 8. BOARD OF DIRECTORS; ELIGIBILITY. (a) Except as
26 provided by Subsections (b) and (c) of this section, the district is
27 governed by a board of five directors who serve staggered terms of

1 four years.

2 (b) The following directors serve until March 1, 2008:

3 (1) Position One: Murray Holland

4 (2) Position Two: Scott Griffith

5 (3) Position Three: Thomas Corcoran

6 (4) Position Four: David Jaderlund

7 (5) Position Five: Robert Whitman

8 (c) The board shall hold an election to elect all directors
9 on the uniform election day in February 2008. Persons elected to
10 Positions One and Two serve terms expiring March 1, 2010. Persons
11 elected to Positions Three, Four, and Five serve terms expiring
12 March 1, 2012.

13 (d) Starting in 2010, the board shall hold an election on
14 the uniform election day in February of an even-numbered year to
15 elect directors to fill the positions the terms of which expire on
16 March 1 of that year.

17 (e) Other than a director listed in Subsection (b) of this
18 section, to be qualified to serve as a director a person must be at
19 least 18 years of age and:

20 (1) reside in the district;

21 (2) own real property in the district;

22 (3) own at least 10 percent of the outstanding
23 interest of a corporation or general or limited partnership that
24 owns real property in the district; or

25 (4) be an agent, employee, officer, or director of a
26 corporation, limited liability company, or partnership that owns
27 real property in the district.

1 SECTION 9. VACANCY. A vacancy on the board shall be filled
2 by appointment by the remaining members of the board of a person who
3 meets the qualifications under Section 8(e) of this Act.

4 SECTION 10. DIRECTOR'S BOND; OATH. (a) As soon as
5 practicable after a director is elected or appointed, the director
6 shall execute a bond for \$10,000 payable to the district and
7 conditioned on the faithful performance of the director's duties.
8 The bond must be approved by the board.

9 (b) Each director shall take the oath of office prescribed
10 by the constitution for public office.

11 (c) The bond and oath shall be filed with the district and
12 the district shall retain the bond and oath in its records.

13 (d) The district shall pay the cost of a bond executed under
14 Subsection (a) of this section.

15 SECTION 11. OFFICERS. The board shall elect a chair, a vice
16 chair, and a secretary from its members.

17 SECTION 12. COMPENSATION. A director is not entitled to
18 compensation for service on the board but is entitled to be
19 reimbursed for necessary and reasonable expenses incurred in
20 carrying out the duties and responsibilities of a director.

21 SECTION 13. QUORUM. Three directors are a quorum. A
22 concurrence of a majority of a quorum of the board shall be required
23 for any official action of the district.

24 SECTION 14. DISTRICT CONFIRMATION ELECTION. (a) As soon as
25 practicable after all initial directors have qualified for office,
26 the initial directors shall hold an organizational meeting and call
27 a confirmation election to be held not later than the second uniform

1 election date occurring after the date of the organizational
2 meeting.

3 (b) The confirmation election shall be called and held to
4 confirm the establishment of the district in the manner provided by
5 Subchapter D, Chapter 49, Water Code. If a majority of the votes
6 cast at a confirmation election do not favor the creation of the
7 district, the board may call succeeding elections on a uniform
8 election date, but may not call another confirmation election
9 sooner than six months after the date of the previous election.

10 (c) Before the district is confirmed at an election, the
11 district may carry on any business as the board may determine except
12 that the district may not borrow money or impose or assess a tax or
13 an assessment.

14 SECTION 15. IMPROVEMENT PROJECTS. The district may
15 provide, or it may enter into contracts with a governmental or
16 private entity to provide, the following types of improvement
17 projects or activities in support of or incidental to those
18 projects:

19 (1) retail or wholesale water treatment, supply, and
20 distribution facilities and systems to provide potable and
21 nonpotable water to the residents and businesses of the district,
22 including wastewater and sewerage collection and treatment
23 facilities and systems, provided that treated effluent water
24 resulting from any sewerage treatment facilities operated by or in
25 the district may be used by the district for irrigation in the
26 district;

27 (2) the provision of septic tank maintenance services

1 inside or outside the district and of solid waste disposal services
2 if the board determines the action to be necessary and appropriate
3 to protect the district;

4 (3) macadamized, graveled, or paved roads, streets,
5 and turnpikes, inside and outside the district to the extent
6 authorized by Section 52, Article III, Texas Constitution;

7 (4) the planning, design, construction, improvement,
8 and maintenance of:

9 (A) landscaping;

10 (B) highway right-of-way or transit corridor
11 beautification and improvements;

12 (C) lighting, banners, and signs;

13 (D) streets or sidewalks;

14 (E) hiking and cycling paths and trails,
15 pedestrian walkways, skywalks, crosswalks, or tunnels;

16 (F) parks, lakes, gardens, recreational and
17 sports facilities, open space, scenic areas, and related exhibits
18 and preserves;

19 (G) fountains, plazas, and pedestrian malls; and

20 (H) drainage or storm-water detention
21 improvements;

22 (5) protection and improvement of the quality of storm
23 water that flows through the district;

24 (6) the planning, design, construction, improvement,
25 maintenance, and operation of:

26 (A) solid waste, water, sewer, or power
27 facilities or services, including electrical, gas, steam, and

1 chilled water facilities; or

2 (B) off-street parking facilities and heliports;

3 (7) the planning and acquisition of:

4 (A) public art and sculpture and related exhibits
5 and facilities; and

6 (B) educational and cultural exhibits and
7 facilities;

8 (8) the planning, design, construction, acquisition,
9 lease, rental, improvement, maintenance, installation, and
10 management of and provision of furnishings for facilities for:

11 (A) conferences, conventions, or exhibitions;

12 (B) manufacturer, consumer, or trade shows;

13 (C) civic, community, or institutional events;

14 and

15 (D) exhibits, displays, attractions, special
16 events, and seasonal or cultural celebrations and holidays;

17 (9) the removal, razing, demolition, or clearing of
18 land or improvements in connection with any improvement project;

19 (10) the acquisition and improvement of land and other
20 property for the mitigation of the environmental effects of any
21 improvement project;

22 (11) the acquisition of property or an interest in
23 property in connection with an authorized improvement project;

24 (12) any special or supplemental services for the
25 improvement and promotion of the district or the areas adjacent to
26 the district or for the protection of public health and safety
27 within or adjacent to the district, including advertising,

1 promotion, tourism, health and sanitation, telecommunications and
2 cable services to residents and businesses in the district, public
3 safety, security, fire protection or emergency medical services,
4 business recruitment, development, elimination of traffic
5 congestion, and recreational, educational, or cultural
6 improvements, enhancements, and services; and

7 (13) any similar public improvements, facilities, or
8 services.

9 SECTION 16. POWERS RELATED GENERALLY TO CONTRACTS AND
10 FINANCIAL MATTERS. (a) The district may:

11 (1) impose an ad valorem tax, assessment, or impact
12 fee in accordance with Chapter 375, Local Government Code, on all
13 taxable property in the district, including industrial,
14 commercial, and residential property, to finance and provide
15 improvement projects;

16 (2) impose, assess, and apply the proceeds from a
17 limited sales and use tax, and a hotel occupancy tax, as authorized
18 by this Act;

19 (3) impose rates, fees, and charges for the use of any
20 improvement project or the consumption of a product resulting from
21 an improvement project;

22 (4) borrow money for district purposes by issuing or
23 executing bonds, notes, credit agreements, or other obligations of
24 any kind found by the board to be necessary or appropriate for
25 district purposes;

26 (5) enter into a contract with any person for the
27 accomplishment of any district purpose, including a contract for:

1 (A) the payment, repayment, or reimbursement of
2 costs incurred by that person on behalf of the district, including
3 all or part of the costs of an improvement project and interest on
4 the reimbursed cost; or

5 (B) the use, occupancy, lease, rental,
6 operation, maintenance, or management of all or part of a proposed
7 or existing improvement project;

8 (6) apply for and contract with any person to receive,
9 administer, and perform any duty or obligation of the district
10 under a federal, state, local, or private gift, grant, loan,
11 conveyance, transfer, bequest, donation, or other financial
12 assistance arrangement relating to the investigation, planning,
13 analysis, study, design, acquisition, construction, improvement,
14 completion, implementation, or operation by the district or others
15 of a proposed or existing improvement project;

16 (7) establish, revise, repeal, enforce, collect, and
17 apply the proceeds from user fees or charges for the enjoyment,
18 sale, rental, or other use of the district's facilities, services,
19 properties, or improvement projects;

20 (8) provide or secure the payment or repayment of the
21 costs and expenses of the establishment, administration, and
22 operation of the district and the district's costs or share of the
23 costs of an improvement project or district contractual obligation
24 or indebtedness by or through a lease, installment purchase
25 contract, or other agreement with any person, or the imposition of
26 taxes, user fees, concessions, rentals, or other revenues or
27 resources of the district;

1 (9) establish user charges related to the operation of
2 various public services, including public water supply services,
3 for the collection and treatment of wastewater, and for the
4 operation of storm-water facilities, including the regulation of
5 storm water for the protection of water quality in the district, and
6 for the provision of septic tank maintenance services inside and
7 outside the district;

8 (10) undertake separately or jointly with other
9 persons all or part of the cost of an improvement project, including
10 an improvement project:

11 (A) for improving, enhancing, and supporting
12 public safety and security, fire protection and emergency medical
13 services, and law enforcement in and adjacent to the district; or

14 (B) that confers a general benefit on the entire
15 district or a special benefit on a definable part of the district;
16 and

17 (11) enter into tax abatement agreements in accordance
18 with the general laws of the state authorizing and applicable to tax
19 abatement agreements by municipalities.

20 (b) A contract the district enters into to carry out a
21 purpose of this Act may be on any terms and for any period as the
22 board may determine.

23 (c) A state agency, a municipality, Henderson County, any
24 other political subdivision, a corporation, an individual, or any
25 other entity may contract with the district to carry out the
26 purposes of this Act without any further statutory or other
27 authorization.

1 SECTION 17. RULES. The district may adopt rules:

2 (1) to administer or operate the district;

3 (2) for the use, enjoyment, availability, protection,
4 security, and maintenance of the district's properties and
5 facilities; or

6 (3) to provide for public safety and security in the
7 district.

8 SECTION 18. ADDITION OR REMOVAL OF TERRITORY. The board may
9 add, delete, or exclude territory in the manner provided by
10 Subchapter J, Chapter 49, Water Code, as limited by Section 54.016,
11 Water Code, except that:

12 (1) for purposes of this section, a reference in
13 Subchapter J, Chapter 49, Water Code, or Section 54.016, Water
14 Code, to a tax means an ad valorem tax;

15 (2) Section 54.016, Water Code, and Section 42.042,
16 Local Government Code, do not apply to the district's annexation of
17 land restricted primarily to commercial or business use;

18 (3) land may not be added or annexed to the district
19 without the consent of the owners of the land; and

20 (4) land may not be removed or disannexed from the
21 district at any time during which any bonds or other obligations of
22 the district that are payable, in whole or in part, from ad valorem
23 taxes are outstanding.

24 SECTION 19. EMINENT DOMAIN. The district has the power of
25 eminent domain, inside and outside its boundaries, for all public
26 purposes. The district's power of eminent domain is exercised in
27 the same manner as required for a county.

1 SECTION 20. NONPROFIT CORPORATION. (a) The district, by
2 board resolution, may authorize the incorporation of a nonprofit
3 corporation to assist and act for the district in implementing an
4 improvement project or providing services authorized by this Act.

5 (b) The board shall appoint the board of directors of a
6 nonprofit corporation created under this section. The board of
7 directors of the nonprofit corporation shall serve in the same
8 manner as, for the same term as, and on the same conditions as a
9 board of directors of a local government corporation created under
10 Subchapter D, Chapter 431, Transportation Code.

11 (c) A nonprofit corporation created under this section:

12 (1) has each power of and is considered for purposes of
13 this Act to be a local government corporation created under
14 Subchapter D, Chapter 431, Transportation Code; and

15 (2) may implement an improvement project and provide a
16 service authorized by this Act and approved by the board.

17 SECTION 21. ECONOMIC DEVELOPMENT. The district may create
18 economic development programs and exercise the economic
19 development powers and authority that Chapter 380, Local Government
20 Code, provides to a municipality with a population of more than
21 100,000, and Chapter 1509, Government Code, provides to any
22 municipality.

23 SECTION 22. TERMS OF EMPLOYMENT; COMPENSATION. The board
24 may employ and establish the terms of employment and compensation
25 of an executive director or general manager and any other employees
26 of the district the board considers necessary.

27 SECTION 23. USE OF ROADWAYS, PARKS, OTHER PUBLIC AREAS OF

1 THE DISTRICT. (a) The board by rule may regulate the private use of
2 public roadways, open spaces, parks, sidewalks, and similar public
3 areas in the district. To the extent the rules of the district
4 conflict with a rule, order, or regulation of Henderson County, the
5 rule, order, or regulation of the county controls. The rules may
6 provide for the safe and orderly use of public roadways, open
7 spaces, parks, sidewalks, and similar public areas or facilities.

8 (b) The board may require a permit for a parade,
9 demonstration, celebration, entertainment event, or a similar
10 nongovernmental activity in or on the public roadways, open spaces,
11 parks, sidewalks, and similar public areas or facilities. The board
12 may charge a fee for the permit application and for public safety or
13 security services in an amount the board considers necessary.

14 (c) The board may require a permit or franchise agreement
15 with a vendor, concessionaire, exhibitor, or similar private or
16 commercial person or organization for the limited use of the area or
17 facilities on terms and on payment of a permit or franchise fee the
18 board may impose.

19 SECTION 24. ZONING BY COUNTY. (a) If requested by the
20 district to exercise zoning powers, Henderson County may exercise,
21 solely in the boundaries of the district, the zoning powers granted
22 to counties in Subchapter E, Chapter 231, Local Government Code,
23 without holding the election required by Section 231.075.

24 (b) If the county exercises zoning powers, the board shall
25 exercise and perform the powers, duties, and functions of a lake
26 planning commission under Section 231.077, Local Government Code.

27 SECTION 25. IMPACT FEES AND ASSESSMENTS. (a) The district

1 may impose impact fees and assessments according to benefits
2 received by the property, including an impact fee or assessment on
3 residential property.

4 (b) An impact fee for residential property must be for the
5 limited purposes of providing capital funding for public water and
6 wastewater facilities, for drainage and storm-water facilities,
7 for telecommunications and cable facilities and services, and for
8 streets and alleys.

9 (c) The district may not impose an impact fee or assessment
10 on the property, equipment, or facilities of a public utility
11 provider.

12 SECTION 26. OPERATION AND MAINTENANCE TAX; ELECTION. (a)
13 The district may impose a tax for operation and maintenance
14 purposes, including for funds for planning, constructing,
15 acquiring, maintaining, repairing, and operating all necessary
16 land, plants, works, facilities, improvements, appliances, and
17 equipment of the district and for paying costs of services,
18 engineering and legal fees, and organization and administrative
19 expenses.

20 (b) An operation and maintenance tax may not be imposed
21 until it is approved by the qualified voters in the district voting
22 at an election held for that purpose. If a majority of the votes
23 cast at the election approve the imposition of the tax, the board
24 may impose the tax and have it assessed and collected in the same
25 manner as other district taxes.

26 (c) An operation and maintenance tax election may be held at
27 the same time and in conjunction with any other district election.

1 The election may be called by a separate election order or as part
2 of any other election order.

3 (d) The proposition in an operation and maintenance tax
4 election may be for a specific maximum rate or for an unlimited
5 rate.

6 (e) If the district has surplus operation or maintenance tax
7 funds that are not needed for the purposes for which they were
8 collected, the funds may be used for any authorized purpose.

9 (f) Sections 26.04, 26.05, and 26.07, Tax Code, do not apply
10 to a tax levied and collected under this section or an ad valorem
11 tax levied and collected for the payment of the interest on and
12 principal of bonds issued by the district.

13 SECTION 27. TAX LEVY FOR BONDS AND OTHER OBLIGATIONS. (a)
14 At the time bonds or other obligations payable in whole or in part
15 from ad valorem taxes are issued:

16 (1) the board shall impose a continuing direct annual
17 ad valorem tax, without limit as to rate or amount, for each year
18 while all or part of the bonds are outstanding; and

19 (2) the district shall annually assess and collect an
20 ad valorem tax on all taxable property in the district in an amount
21 sufficient to:

22 (A) pay the interest on the bonds or other
23 obligations as it becomes due;

24 (B) create a sinking fund for the payment of the
25 principal of the bonds or other obligations when due or the
26 redemption price at any earlier required redemption date; and

27 (C) pay the expenses of assessing and collecting

1 the taxes.

2 (b) Bonds or other obligations that are secured by and
3 payable from assessments or ad valorem taxes, or a combination of
4 assessments and ad valorem taxes, may not be issued unless the bonds
5 and the imposition of the taxes are approved by a majority of the
6 voters in the district voting at an election held for that purpose.

7 (c) The district shall conduct an election required by this
8 section in the manner provided by Subchapter L, Chapter 375, Local
9 Government Code.

10 SECTION 28. LIMITED SALES AND USE TAX. (a) Words and
11 phrases used in this section that are defined by Chapters 151 and
12 321, Tax Code, have the meanings assigned by Chapters 151 and 321,
13 Tax Code.

14 (b) Except as otherwise provided in this section, Subtitles
15 A and B, Title 2, Tax Code, and Chapter 151, Tax Code, apply to the
16 taxes and to the administration and enforcement of the taxes
17 imposed by the district in the same manner that those laws apply to
18 state taxes.

19 (c) The district may adopt, reduce, or repeal the limited
20 sales and use tax authorized by this section at an election in which
21 a majority of the voters of the district voting in the election
22 approve the adoption or the abolition of the tax, as applicable.

23 (d) The provisions of Subchapters C, D, E, and F, Chapter
24 323, Tax Code, relating to county sales and use taxes shall apply to
25 the application, collection, and administration of a sales and use
26 tax imposed under this section to the extent consistent with this
27 Act, as if references in Chapter 323, Tax Code, to a county referred

1 to the district and references to a commissioners court referred to
2 the board. Sections 323.401-323.404 and 323.505, Tax Code, do not
3 apply to a tax imposed under this section.

4 (e) A tax imposed under this section or the repeal or
5 reduction of a tax under this section takes effect on the first day
6 of the calendar quarter occurring after the date on which the
7 comptroller receives the copy of the resolution as required by
8 Section 323.405(b), Tax Code.

9 (f) On adoption of the tax authorized by this section, there
10 is imposed a tax of two percent, or the maximum rate at which the
11 combined tax rate of all local sales and use taxes in any location
12 in the district does not exceed two percent, on the receipts from
13 the sale at retail of taxable items within the district, and an
14 excise tax on the use, storage, or other consumption within the
15 district of taxable items purchased, leased, or rented from a
16 retailer within the district during the period that the tax is in
17 effect. The rate of the excise tax is the same as the rate of the
18 sales tax portion of the tax and is applied to the sales price of the
19 taxable item.

20 (g) An election to authorize, reduce, or repeal a limited
21 sales and use tax may be called by order of the board and must be
22 held on the next available uniform election date that occurs 45 or
23 more days after the date on which the order calling the election was
24 passed. The district shall provide notice of the election and shall
25 hold and conduct the election in the manner prescribed by Chapter
26 54, Water Code, for bond elections for municipal utility districts.
27 The ballots shall be printed to provide for voting for or against

1 the appropriate one of the following propositions:

2 (1) "Adoption of a ___ percent district sales and use
3 tax within the district";

4 (2) "Reduction of the district sales and use tax
5 within the district from ___ percent to ___ percent"; or

6 (3) "Abolition of the district sales and use tax
7 within the district."

8 (h) If all or part of the territory of the district is
9 annexed by a municipality that has adopted and is imposing a sales
10 and use tax, the sales and use tax imposed by the district in the
11 annexed territory shall be reduced, if required, in even multiples
12 of one-eighth percent, and without the necessity for an election,
13 so that the combined rate of all sales and use taxes imposed by
14 Henderson County, the annexing municipality, and all other
15 political subdivisions within the annexed territory of the district
16 will not exceed two percent, except that:

17 (1) a sales and use tax previously adopted by the
18 district for the annexed territory may not be reduced to less than
19 one-half percent; and

20 (2) a reduction of the district's sales and use tax in
21 the portions of the district that are not annexed is not required.

22 (i) A tax imposed under this section or the reduction or
23 repeal of a tax under this section takes effect on the first day of
24 the calendar quarter occurring after the date on which the
25 comptroller receives the notice required by Section 323.405(b), Tax
26 Code.

27 (j) Not later than the 10th day after the date of the

1 annexation or exclusion of territory by the district or the
2 annexation of all or part of the territory of the district by a
3 municipality requiring a reduction of the district's sales and use
4 tax as provided by Subsection (h) of this section, the board shall
5 send to the comptroller, by certified or registered mail, certified
6 copies of all resolutions, orders, or ordinances pertaining to the
7 annexation or exclusion of the territory by a district or
8 municipality.

9 (k) The district may examine and receive information
10 related to the imposition, assessment, and collection of sales and
11 use taxes to the same extent as if the district were a municipality.

12 SECTION 29. HOTEL OCCUPANCY TAX. (a) In this section,
13 "hotel" has the meaning assigned by Section 156.001, Tax Code.

14 (b) The board by order may impose, repeal, or increase or
15 decrease the rate of a tax on a person who, under a lease,
16 concession, permit, right of access, license, contract, or
17 agreement, pays for the use or possession or for the right to use or
18 possess a room that is in a hotel located in the boundaries of the
19 district, costs \$2 or more each day, and is ordinarily used for
20 sleeping. The amount of the tax may not exceed seven percent of the
21 price paid for a room in a hotel.

22 (c) Except as inconsistent with this section, Subchapter A,
23 Chapter 352, Tax Code, governs a hotel occupancy tax authorized
24 under this section, including the collection of the tax, subject to
25 the limitations prescribed by Sections 352.002(b) and (c), Tax
26 Code.

27 (d) The district may examine and receive information

1 related to the imposition, assessment, and collection of hotel
2 occupancy taxes to the same extent as if the district were a
3 municipality.

4 (e) For purposes of this section, a reference in Subchapter
5 A, Chapter 352, Tax Code, to a county is a reference to the district
6 and a reference in Subchapter A, Chapter 352, Tax Code, to the
7 county's officers or governing body is a reference to the board.

8 SECTION 30. USE OF HOTEL OCCUPANCY TAX. (a) The district
9 shall apply the proceeds from a hotel occupancy tax imposed under
10 this Act for any of the district's purposes and for the purposes
11 described by Section 352.1015, Tax Code, to the extent considered
12 appropriate by the board.

13 (b) During each interval of three calendar years following
14 the date on which a hotel occupancy tax imposed under this section
15 is initially collected, the board may not apply an annual average of
16 more than 10 percent of the amount of tax collected under Section 29
17 of this Act, excluding any interest earnings or investment profits
18 and after a deduction for the costs of imposing and collecting the
19 taxes, for the administrative expenses of the district or a
20 district purpose other than:

- 21 (1) the costs of advertising and promoting tourism; or
22 (2) the costs of business development and commerce,
23 including the costs of planning, designing, constructing,
24 acquiring, leasing, financing, owning, operating, maintaining,
25 managing, improving, repairing, rehabilitating, or reconstructing
26 improvement projects for conferences, conventions, and
27 exhibitions, manufacturer, consumer, or trade shows, and civic,

1 community, or institutional events.

2 (c) For purposes of this section, a reference in Subchapter
3 B, Chapter 352, Tax Code, to a county is a reference to the district
4 and a reference in Subchapter B, Chapter 352, Tax Code, to the
5 county's officers or governing body is a reference to the board.

6 SECTION 31. BONDS AND OTHER OBLIGATIONS. (a) The district
7 may issue bonds in the manner provided by Subchapter J, Chapter 375,
8 Local Government Code, except that Sections 375.207 and 375.208 do
9 not apply to bonds issued under this Act.

10 (b) In addition to the sources of money described by
11 Subchapter J, Chapter 375, Local Government Code, the bonds of the
12 district may be secured and made payable, wholly or partly, by a
13 pledge of any part of the net proceeds the district receives from
14 the sales and use tax and the hotel occupancy tax authorized by
15 this Act and from any other district revenues.

16 SECTION 32. DISSOLUTION. (a) Except as provided by
17 Subsection (b) and the terms of a joint development and operating
18 agreement, the board:

19 (1) may dissolve the district by majority vote; and

20 (2) shall dissolve the district on receipt of a
21 written petition requesting dissolution signed by the owners of 75
22 percent of the acreage of real property in the district.

23 (b) The board may not dissolve the district until the
24 district's outstanding indebtedness or contractual obligations
25 have been repaid or discharged.

26 (c) After the board dissolves the district, the board shall
27 transfer ownership of all property and assets of the district to

1 Henderson County.

2 SECTION 33. ADDITIONAL LEGISLATIVE FINDINGS. The
3 legislature finds that:

4 (1) proper and legal notice of the intention to
5 introduce this Act, setting forth the general substance of this
6 Act, has been published as provided by law, and the notice and a
7 copy of this Act have been furnished to all persons, agencies,
8 officials, or entities to which they are required to be furnished by
9 the constitution and laws of this state, including the governor,
10 who has submitted the notice and Act to the commission;

11 (2) the commission has filed its recommendations
12 relating to this Act with the governor, lieutenant governor, and
13 speaker of the house of representatives within the required time;

14 (3) the general law relating to consent by political
15 subdivisions to the creation of districts with conservation,
16 reclamation, and road powers and the inclusion of land in those
17 districts has been complied with; and

18 (4) all requirements of the constitution and laws of
19 this state and the rules and procedures of the legislature with
20 respect to the notice, introduction, and passage of this Act have
21 been fulfilled and accomplished.

22 SECTION 34. EFFECTIVE DATE. This Act takes effect February
23 15, 2004.

COMMITTEE AMENDMENT NO. 1

1 Amend HB 2533 on page 15 by striking lines 24-27 and
2 substituting the following:

3 SECTION 19. EMINENT DOMAIN. The district has the power of
4 eminent domain inside the district's boundaries for all public
5 purposes and outside the district's boundaries for the sole purpose
6 of constructing, owning, operating, repairing, and maintaining
7 water supply lines and sanitary sewer service lines. The districts
8 power of eminent domain is exercised in the same manner as required
9 for a county.
10

11 Lewis

COMMITTEE AMENDMENT NO. 2

12 Amend H.B. 2533, as follows:

13 (1) Revise clause (3) of Section 7(a) of the bill to read:

14 "(3) Chapter 372, Local Government Code, and Chapter
15 375, Local Government Code; and"
16

17 (2) Revise clause (1) of Section 16(a) of the bill to read:

18 "(1) impose an ad valorem tax, assessment, or impact
19 fee in accordance with the procedures applicable to municipal
20 management districts under Chapter 375, Local Government Code, on
21 all taxable property in the district, including industrial,
22 commercial, and residential property and may impose assessments or
23 impact fees in accordance with the procedures applicable to public
24 improvement districts under Chapter 372, Local Government Code,
25 upon all industrial, commercial, and residential property in the
26 district, to finance and provide improvement projects;"
27

(3) Add a new subsection (d) to Section 25 of the bill to

1 read:

2 "(d) Impact fees and assessments shall be imposed and
3 collected in accordance with the procedures applicable to cities,
4 counties, and public improvement districts under Chapter 372, Local
5 Government Code."

6 (4) Revise subsection (b) of Section 27 of the bill to read:

7 "(b) Bonds or other obligations that are secured by and
8 payable from ~~assessments or ad valorem taxes, or a combination of~~
9 ~~assessments and ad valorem taxes~~, may not be issued unless the bonds
10 and the imposition of the taxes are approved by a majority of the
11 voters of the district voting at an election held for that purpose."

12 Lewis

13 COMMITTEE AMENDMENT NO. 3

14 Amend HB 2533 as follows:

15 On page 12, lines 1 and 2, strike the words
16 "telecommunications and cable services to residents and businesses
17 in the district,".

18 Lewis