

By: Kuempel

H.B. No. 3487

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Schertz Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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 8128 to read as follows:

CHAPTER 8128. SCHERTZ MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8128.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of the board.

(3) "District" means the Schertz Municipal Utility District No. 1.

Sec. 8128.002. NATURE OF DISTRICT. The district is a municipal utility district in Bexar County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8128.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8128.022 before September 1, 2007:

(1) the district is dissolved September 1, 2007, except that:

1           (A) any debts incurred shall be paid;

2           (B) any assets that remain after the payment of  
3 debts shall be transferred to the City of Schertz; and

4           (C) the organization of the district shall be  
5 maintained until all debts are paid and remaining assets are  
6 transferred; and

7           (2) this chapter expires September 1, 2010.

8           Sec. 8128.004. INITIAL DISTRICT TERRITORY. (a) The  
9 district is initially composed of the territory described by  
10 Section 2 of the Act creating this chapter.

11           (b) The boundaries and field notes contained in Section 2 of  
12 the Act creating this chapter form a closure. A mistake made in the  
13 field notes or in copying the field notes in the legislative process  
14 does not affect:

15           (1) the organization, existence, or validity of the  
16 district;

17           (2) the right of the district to impose taxes; or

18           (3) the legality or operation of the board.

19           Sec. 8128.005. APPLICABILITY OF OTHER LAW. Except as  
20 otherwise provided by this chapter, Chapters 30, 49, and 54, Water  
21 Code, apply to the district.

22           [Sections 8128.006-8128.020 reserved for expansion]

23           SUBCHAPTER A-1. TEMPORARY PROVISIONS

24           Sec. 8128.021. TEMPORARY DIRECTORS. (a) The temporary  
25 board consists of:

26           (1) Bill K. Benton;

27           (2) Gina L. Fann;

1           (3) Christopher K. Price;

2           (4) Barbara Boyer Simpson; and

3           (5) Suzette M. Smith.

4           (b) Temporary directors of the district are not required to  
5 own land in or be residents of the district.

6           (c) If a temporary director fails to qualify for office, the  
7 temporary directors who have qualified shall appoint a person to  
8 fill the vacancy. If at any time there are fewer than three  
9 qualified temporary directors, the Texas Commission on  
10 Environmental Quality shall appoint the necessary number of persons  
11 to fill all vacancies on the board.

12           (d) Temporary directors serve until the earlier of:

13           (1) the date directors are elected under Section  
14 8128.022; or

15           (2) the date this chapter expires under Section  
16 8128.003.

17           Sec. 8128.022. CONFIRMATION AND INITIAL DIRECTORS'  
18 ELECTION. (a) The temporary directors shall hold an election to  
19 confirm the creation of the district and to elect five initial  
20 directors as provided by Section 49.102, Water Code.

21           (b) At the confirmation and initial directors' election the  
22 board may submit to the voters a proposition to authorize:

23           (1) an issuance of bonds;

24           (2) a maintenance tax; or

25           (3) a tax to fund payments required under a contract.

26           (c) Section 41.001(a), Election Code, does not apply to a  
27 confirmation and initial directors' election held under this

1 section.

2 Sec. 8128.023. INITIAL ELECTED DIRECTORS; TERMS. The  
3 directors elected under Section 8128.022 shall draw lots to  
4 determine which two shall serve until the first regularly scheduled  
5 election of directors under Section 8128.052 and which three shall  
6 serve until the second regularly scheduled election of directors.

7 Sec. 8128.024. EXPIRATION OF SUBCHAPTER. This subchapter  
8 expires September 1, 2010.

9 [Sections 8128.025-8128.050 reserved for expansion]

10 SUBCHAPTER B. BOARD OF DIRECTORS

11 Sec. 8128.051. DIRECTORS; TERMS. (a) The district is  
12 governed by a board of five directors.

13 (b) Directors serve staggered four-year terms.

14 Sec. 8128.052. ELECTION OF DIRECTORS. On the uniform  
15 election date in May of each even-numbered year, the appropriate  
16 number of directors shall be elected.

17 [Sections 8128.053-8128.100 reserved for expansion]

18 SUBCHAPTER C. DIVISION OF DISTRICT TO MULTIPLE DISTRICTS

19 Sec. 8128.101. DIVISION OF DISTRICT; REQUIREMENTS. (a) At  
20 any time before the district issues indebtedness secured by taxes  
21 or net revenues, the district, including any annexed territory, may  
22 be divided into two or more new districts.

23 (b) A new district created by division of the district must  
24 be at least 100 acres.

25 (c) The board by resolution may declare an intent to divide  
26 the district. The resolution must:

27 (1) set the terms of the division, including a plan for

1 the payment or performance of any outstanding district obligations;  
2 and

3 (2) contain a metes and bounds description for each  
4 new district.

5 Sec. 8128.102. DISTRICT DIVISION BY ELECTION. (a) The  
6 board shall hold an election in the district to determine whether  
7 the district should be divided as proposed under Section 8128.101.

8 (b) The board shall give notice of the election not later  
9 than the 35th day before the date of the election. The notice must  
10 state:

11 (1) the date and location of the election; and

12 (2) the proposition to be voted on.

13 (c) If a majority of the votes are cast in favor of the  
14 division, the district is divided.

15 (d) If less than a majority of the votes are cast in favor of  
16 the division, the district may not be divided.

17 (e) The resulting new districts are separate districts and  
18 shall be governed as separate districts.

19 Sec. 8128.103. NOTICE OF DIVISION. Not later than the 30th  
20 day after the date of a division under this subchapter, the district  
21 shall provide written notice of the plan for division to:

22 (1) the Texas Commission on Environmental Quality;

23 (2) the attorney general;

24 (3) the commissioners court of each county in which a  
25 new district is located; and

26 (4) each municipality having extraterritorial  
27 jurisdiction over territory in a new district.

1       Sec. 8128.104. DISTRICT NAMES FOLLOWING DIVISION. The  
2 resulting new districts are assigned consecutive letters to be  
3 appended to the name of the original district.

4       Sec. 8128.105. ELECTION OF DIRECTORS OF NEW DISTRICTS. (a)  
5 Not later than the 90th day after the date of an election in favor of  
6 the division of the district, the board shall:

7           (1) appoint itself as the board of one of the new  
8 districts; and

9           (2) appoint five directors for each of the other new  
10 districts.

11       (b) A director appointed under Subsection (a)(1) serves the  
12 term to which that director was elected in the original district. A  
13 director appointed under Subsection (a)(2):

14           (1) serves until the election for directors under  
15 Subsection (c); and

16           (2) is not required to own land in or reside in the  
17 district for which the director is appointed.

18       (c) On the uniform election date in May of the first  
19 even-numbered year after the year in which the directors are  
20 appointed, an election shall be held to elect five directors in each  
21 district for which directors were appointed under Subsection  
22 (a)(2). Of the five directors elected in each district, the three  
23 directors receiving the greatest number of votes shall serve until  
24 the second regularly scheduled election of directors under  
25 Subsection (d), and the remaining two directors shall serve until  
26 the first regularly scheduled election of directors.

27       (d) Except as provided by Subsection (c), directors serve

1 staggered four-year terms. On the uniform election date in May of  
2 each even-numbered year, the appropriate number of directors shall  
3 be elected.

4 Sec. 8128.106. CONTINUING POWERS AND OBLIGATIONS OF NEW  
5 DISTRICTS. (a) Each new district may incur and pay debts and has  
6 all powers of the original district created by this chapter.

7 (b) If the district is divided as provided by this  
8 subchapter, the current obligations and any bond authorizations of  
9 the district are not impaired. Debts shall be paid by revenues or  
10 by taxes or assessments imposed on real property in the district as  
11 if the district had not been divided or by contributions from each  
12 new district as stated in the terms set by the board in the plan for  
13 division.

14 (c) Any other district obligation shall be divided pro rata  
15 among the new districts on an acreage basis or on other terms that  
16 are satisfactory to the new districts.

17 Sec. 8128.107. CONTRACT AUTHORITY OF NEW DISTRICTS. The  
18 new districts may contract with each other for:

- 19 (1) water and wastewater services; or  
20 (2) any other matter the boards of the new districts  
21 consider appropriate.

22 Sec. 8128.108. BOND ISSUANCE BY NEW DISTRICT. A new  
23 district may issue bonds payable wholly or partially from ad  
24 valorem taxes on the approval of a majority of the residents voting  
25 in an election called and held for that purpose.

26 Sec. 8128.109. MAINTENANCE TAX APPROVAL FOR NEW DISTRICT.  
27 A new district may impose a maintenance tax on the approval of a

1 majority of the residents voting in an election called and held for  
2 that purpose.

3 SECTION 2. The Schertz Municipal Utility District No. 1  
4 initially includes the territory contained within the following  
5 area:

6 BEING 101.223 acres of land more or less situated in the  
7 Julian Diaz Survey No. 66, Abstract No. 187, County Block 5059,  
8 Bexar County, Texas, consisting of 78.951 acres of land more or less  
9 out of a called 145.776 acre tract as described in Volume 6300, Page  
10 439 Official Public Records, Bexar County, Texas, and 22.272 acres  
11 of land more or less out of a called 52.539 acre tract as described  
12 in Volume 5491, Page 740 Official Public Records, Bexar County,  
13 Texas, and being more particularly described as follows:

14 BEGINNING at a point for the North corner of said 145.776 acre  
15 tract and the North corner of this tract herein described, situated  
16 at the point of intersection of the southeast right-of-way of Lower  
17 Sequin Road with the southwest right-of-way of Trainer Hale Road  
18 (abandoned);

19 Thence with the southwest right-of-way of Trainer Hale Road  
20 S30°16'00"E, 1214.52 feet to a point marking the intersection of the  
21 southwest right-of-way of Trainer Hale Road with the southwest  
22 right-of-way of F.M. Road 1518;

23 THENCE with the southwest right-of-way of F.M. 1518,  
24 S30°16'00"E, 2715.35 feet to a point for the west corner of this  
25 tract and the east corner of said 145.776 acre tract;

26 THENCE S59°54'31"W, 900.86 feet crossing the east corner of  
27 said 52.593 acre tract at 300.00 feet, to a point for a corner of



1 this tract herein described on the southeast line of the above  
2 mentioned 52.593 acre tract;

3 THENCE leaving the southeast line of said 52.593 acre tract  
4 and into said 52.593 acre tract N71°13'42"W, 350.07 feet to a point  
5 for a corner of this tract herein described;

6 Thence N30°16'00"W, 3663.16 feet to a point on the southeast  
7 right-of-way of Lower Sequin Road;

8 THENCE N59°45'15"E, 1130.14 feet to the Point of Beginning and  
9 containing 101.223 acres of land more or less.

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

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

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

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

1 SECTION 4. This Act takes effect September 1, 2005.