

By: Denny

H.B. No. 3523

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Smiley Road Water Control and Improvement District; 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 I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9001 to read as follows:

CHAPTER 9001. SMILEY ROAD WATER CONTROL AND IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9001.001. 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 Smiley Road Water Control and Improvement District.

Sec. 9001.002. NATURE OF DISTRICT. The district is a water control and improvement district in Denton County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

Sec. 9001.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 9001.023 before September 1, 2007:

(1) the district is dissolved September 1, 2007,

1 except that:

2 (A) any debts incurred shall be paid;

3 (B) any assets that remain after the payment of
4 debts shall be transferred to Denton County; and

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

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

9 Sec. 9001.004. INITIAL DISTRICT TERRITORY. (a) The
10 district is initially composed of the territory described by
11 Section 2 of the Act creating this chapter.

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

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

18 (2) the right of the district to impose ad valorem
19 taxes; or

20 (3) the legality or operation of the district or the
21 board.

22 Sec. 9001.005. APPLICABILITY OF OTHER LAW. Except as
23 otherwise provided by this chapter, Chapters 49 and 51, Water Code,
24 apply to the district.

25 [Sections 9001.006-9001.020 reserved for expansion]

26 SUBCHAPTER A1. TEMPORARY PROVISIONS

27 Sec. 9001.021. TEMPORARY DIRECTORS. (a) The temporary

1 board consists of:

- 2 (1) Brett Blakey;
- 3 (2) Michael Cummings;
- 4 (3) Shane Jordan;
- 5 (4) Mike Miller; and
- 6 (5) Mike Mollo.

7 (b) If a temporary director fails to qualify for office, the
8 Texas Commission on Environmental Quality shall appoint a person to
9 fill the vacancy.

10 (c) Temporary directors serve until the earlier of:

- 11 (1) the date directors are elected under Section
12 9001.023; or
- 13 (2) the date this chapter expires under Section
14 9001.003.

15 Sec. 9001.022. ORGANIZATIONAL MEETING OF TEMPORARY
16 DIRECTORS. As soon as practicable after all the temporary
17 directors have qualified under Section 49.055, Water Code, the
18 temporary directors shall meet and elect officers from their
19 membership.

20 Sec. 9001.023. CONFIRMATION AND INITIAL DIRECTORS'
21 ELECTION. Before September 1, 2007, the temporary directors shall
22 hold an election to confirm the creation of the district and to
23 elect five directors as provided by Section 49.102, Water Code.

24 Sec. 9001.024. INITIAL ELECTED DIRECTORS; TERMS. The
25 directors elected under Section 9001.023 shall draw lots to
26 determine which two shall serve until the first regularly scheduled
27 election of directors under Section 9001.052 and which three shall

1 serve until the second regularly scheduled election of directors.

2 Sec. 9001.025. EXPIRATION OF SUBCHAPTER. This subchapter
3 expires September 1, 2010.

4 [Sections 9001.026-9001.050 reserved for expansion]

5 SUBCHAPTER B. BOARD OF DIRECTORS

6 Sec. 9001.051. DIRECTORS; TERMS. (a) The district is
7 governed by a board of five directors.

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

9 Sec. 9001.052. ELECTION OF DIRECTORS. On the uniform
10 election date in May of each even-numbered year, the appropriate
11 number of directors shall be elected.

12 [Sections 9001.053-9001.100 reserved for expansion]

13 SUBCHAPTER C. POWERS AND DUTIES

14 Sec. 9001.101. GENERAL POWERS. (a) The district has:

15 (1) all of the rights, powers, privileges, authority,
16 functions, and duties provided by the general law of this state,
17 including Chapters 49 and 51, Water Code, applicable to water
18 control and improvement districts created under Section 59, Article
19 XVI, Texas Constitution; and

20 (2) subject to Section 9001.105, the rights,
21 authority, privileges, and functions of a road district operating
22 under Section 52(b)(3), Article III, Texas Constitution, Chapter
23 257, Transportation Code, and other general laws of this state
24 relating to road districts.

25 (b) The district may provide water, sanitary sewer,
26 drainage, and, subject to Section 9001.105, road services to each
27 part of the district not receiving those services on the effective

1 date of the Act creating this chapter.

2 Sec. 9001.102. AUTHORITY TO CONTRACT WITH OWNERS OF REAL
3 PROPERTY IN DISTRICT. The district may enter into a contract with
4 an owner of real property in the district for the construction,
5 acquisition, financing, ownership, maintenance, and operation of a
6 work or project described by Section 9001.101(b).

7 Sec. 9001.103. CONTRACTS WITH CITY OF CELINA. The district
8 shall use its best efforts to acquire water, sewer, and other powers
9 permitted by law and, if successful, to enter into a contract with
10 the City of Celina to provide water, sewer, and other services to
11 the city.

12 Sec. 9001.104. PROHIBITION ON DIVISION OF DISTRICT. The
13 district may not divide into two or more districts in the manner
14 specified by Section 53.029, Water Code.

15 Sec. 9001.105. VOTER APPROVED ROAD DISTRICT POWERS. (a) If
16 a majority of the voters of the district vote in favor of the
17 district's assumption of road district powers in the manner
18 provided by Section 53.029, Water Code, at an election held for that
19 purpose, the district shall assume the rights, authority,
20 privileges, and functions of a road district as described by
21 Section 9001.101(a)(2).

22 (b) If the voters approve road district powers under
23 Subsection (a), the district may provide for, or provide aid for,
24 the construction, acquisition, financing, maintenance, and
25 operation of macadamized, graveled, or paved roads. Road district
26 powers under this section do not include any powers related to the
27 construction, acquisition, financing, maintenance, or operation of

1 a turnpike or toll road.

2 (c) Notwithstanding Section 53.029(e), Water Code, if the
3 district assumes road district powers under this section, the
4 district must obtain the approval of the commissioners court for a
5 construction contract described by Section 257.003(c),
6 Transportation Code.

7 (d) Section 49.182, Water Code, does not apply to a project
8 undertaken by the district under this section.

9 Sec. 9001.106. ADDITION OF LAND TO DISTRICT. The district
10 may add land to the district in the manner provided by Section
11 49.301, Water Code, if the owner of the land submits a petition to
12 the district for the addition of the land to the district and the
13 land is adjacent to the territory of the district or is separated
14 from the district only by public land or a right-of-way.

15 [Sections 9001.107-9001.150 reserved for expansion]

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 9001.151. AD VALOREM PLAN OF TAXATION. The district
18 shall use the ad valorem plan of taxation, subject to voter approval
19 at an election held in the district for that purpose.

20 Sec. 9001.152. AD VALOREM TAX FOR ROAD PROJECTS. The
21 district may impose an ad valorem tax to pay the principal of or
22 interest on bonds issued under Section 9001.201(b) to finance
23 projects under Section 9001.105.

24 [Sections 9001.153-9001.200 reserved for expansion]

25 SUBCHAPTER E. BONDS

26 Sec. 9001.201. AUTHORITY TO ISSUE BONDS. (a) The district
27 may issue bonds as provided by Chapter 49 or 51, Water Code, or

1 Section 53.029, Water Code, the general laws of this state, or this
2 section.

3 (b) Except as provided by Subsection (c) and Section
4 9001.202, the district may issue bonds, notes, or other obligations
5 as provided by Section 53.029, Water Code, to finance, or assist in
6 the financing of, projects under Section 9001.105.

7 (c) The district may not issue bonds under Subsection (b)
8 unless the issuance is authorized by two-thirds of the district's
9 voters voting at an election called for that purpose.

10 (d) Section 49.181, Water Code, does not apply to a bond
11 issued by the district under Section 53.029, Water Code.

12 Sec. 9001.202. LIMIT ON BONDS AND OTHER OBLIGATIONS. (a)
13 Bonds, notes, or other obligations issued or incurred by the
14 district under Section 53.029, Water Code, may not exceed
15 one-fourth of the assessed value of the real property in the
16 district.

17 (b) The district may not issue bonds until a development
18 agreement between the City of Celina and the district has been
19 signed.

20 Sec. 9001.203. USE OF BOND PROCEEDS. The district may use
21 proceeds from the sale of bonds to acquire improvements or
22 facilities:

23 (1) from a private water supply corporation to provide
24 water or sanitary sewer services to territory in the district; or

25 (2) to provide services described by Section
26 9001.101(b).

27 SECTION 2. The Smiley Road Water Control and Improvement

1 District initially includes all the territory contained in the
2 following described area:

3 All that certain tract or parcel of land lying and being
4 situated in Denton County, Texas, a part of the ROBERT COWAN SURVEY,
5 ABSTRACT NO. 211, and being comprised of the following:

6 1) All of an 85.17 acre tract described in a Deed to
7 Celina West 637, Ltd., recorded in Volume 5140, Page 827 of
8 the Real Property Records of Denton County

9 2) All of an 101.42 acre tract described in a Deed to
10 Celina West 637, Ltd., recorded in Volume 5140, Page 821 of
11 the Real Property Records of Denton County,

12 3) All of a tract said to contain 252.905 acres as
13 described under the caption "Second Tract" in a Deed to
14 Celina West 637, Ltd., recorded in Volume 5120 page 2232 of
15 the Real Property Records of Denton County.

16 4) All of an 150.69 acre tract described in a Deed to
17 Celina West 637, Ltd. Recorded in Volume 5167, Page 2788 of
18 the Real Property Records of Denton County, and

19 5) All of a tract said to contain 35.426 acres as
20 described in a deed to Underwood Financial, L.P., et al,
21 recorded under Clerk's File No. 04-0029789, said tract or
22 parcel of land is herein described as follows; to wit:

23 BEGINNING at point at the intersection of Carey Road (a
24 county road running in an easterly and westerly direction) with
25 Smiley Road (a county road running in a northerly and southerly
26 direction) for the southwest corner of the premises herein
27 described;

1 THENCE along Smiley Road North 00 degrees 30 minutes 10
2 seconds East, a distance of 2127.78 for the northwest corner of said
3 85.17 acre tract and an angle point of this tract;

4 THENCE continuing along Smiley road North 00 degrees 47
5 minutes 09 seconds East 891.20 to a point in said road at the
6 northwest corner of said called 35.426 acre tract for the most
7 westerly northwest corner hereof:

8 THENCE South 89 degrees 02 minutes 45 seconds East 1742.21
9 feet to a point in the west line of said 150.69 acre tract for the
10 northeast corner of said called 35.426 acre tract and a re-entrant
11 corner hereof;

12 THENCE along the west line of said 150.69 acre tract, North
13 00 degrees 30 minutes 47 seconds East, a distance of 249.99 feet to
14 a point for corner;

15 THENCE North 00 degrees 03 minutes 52 seconds West, a
16 distance of 57.13 feet to a point at the southwest corner said
17 record 252.905 acre tract;

18 THENCE along the west line of last named tract, North 00
19 degrees 46 minutes 57 seconds East, a distance of 393.91 feet to a
20 point at the southeast corner of MEADOW VISTA PHASE 2, an addition
21 to Denton County according to the Plat thereof recorded in Cabinet
22 Q, page 271 of the Denton County Plat Records;

23 THENCE North 00 degrees 36 minutes 12 seconds East, a
24 distance of 2078.90 feet to a point for the most westerly northwest
25 corner of said record 252.905 acre tract;

26 THENCE South 88 degrees 07 minutes 27 seconds East, a
27 distance of 2457.17 feet to a point for corner;

1 THENCE North 00 degrees 15 minutes 45 seconds West, a
2 distance of 862.00 feet to a point in the south line of F.M. Highway
3 No. 428;

4 THENCE South 89 degrees 44 minutes 26 seconds East, along
5 the south line of said FM. Highway No. 428, a distance of 834.25
6 feet to point in the easterly radius of the Extraterritorial
7 Jurisdiction of the Town of Celina;

8 THENCE departing said south line, and said easterly radius,
9 due South, a distance of 2620.43 feet to a point;

10 THENCE North 90 degrees 00 minutes 00 seconds East, a
11 distance of 3347.18 feet to a point in the paved surface of said
12 County Line Road;

13 THENCE South 00 degrees 27 minutes 20 seconds West, a
14 distance of 662.33 feet to a point t in the paved surface of said
15 County Line Road for the southeast corner of said 101.42 acre tract
16 and an ell corner hereof;

17 THENCE North 89 degrees 46 minutes 54 seconds West, a
18 distance of 2668.49 feet to a point for the southwest corner of said
19 101.42 acre tract, same being the southeast corner of said record
20 252.905 acre tract;

21 THENCE along the south line of last named tract, North 89
22 degrees 40 minutes 55 seconds West, a distance of 1999.64 feet to a
23 point for the northeast corner of said 150.69 acre tract, said
24 corner being a re-entrant corner hereof;

25 THENCE South 00 degrees 31 minutes 41 seconds West, a
26 distance of 3304.39 feet to a point in Carey Road at the southeast
27 corner of said 150.69 acre tract, said corner being the most

1 southerly southeast corner hereof:

2 THENCE with the south line of said Carey Road, North 89
3 degrees 43 minutes 05 seconds West, a distance of 3731.89 feet to
4 the PLACE OF BEGINNING and containing 522.25 acres of land of which
5 approximately 1.0 acre is subject to the 100 year flood per FEMA
6 Maps and which 4.00 acres are subject to existing County Road
7 rights-of-way leaving a net area of 517.25 acres of land.

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

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

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

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

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 3523

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2005.