

By: Martinez Fischer

H.B. No. 4463

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of Austin Desired Development Zone
3 District No. 5; providing authority to levy an assessment, impose
4 taxes, and issue bonds; and granting a limited power of eminent
5 domain.

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

7 SECTION 1. Subtitle C, Title 4, Special District Local Laws
8 Code, is amended by adding Chapter 38__ to read as follows:

9 CHAPTER 38__. Austin Desired Development Zone District No. 5

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 38__.001. DEFINITIONS. In this chapter:

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

13 (2) "City" means the City of Austin.

14 (3) "County" means Travis County.

15 (4) "Director" means a board member.

16 (5) "District" means the Austin Desired Development
17 Zone District No. 5.

18 Sec. 38__.002. NATURE OF DISTRICT. Austin Desired
19 Development Zone District No. 5 is a special district created under
20 Section 59, Article XVI, Texas Constitution.

21 Sec. 38__.003. PURPOSE; DECLARATION OF INTENT. (a) The
22 creation of the district is essential to accomplish the purposes of
23 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
24 Texas Constitution, and other public purposes stated in this

1 chapter. By creating the district and in authorizing the city, the
2 county, and other political subdivisions to contract with the
3 district, the legislature has established a program to accomplish
4 the public purposes set out in Section 52-a, Article III, Texas
5 Constitution.

6 (b) The creation of the district is necessary to promote,
7 develop, encourage, and maintain employment, commerce,
8 transportation, housing, tourism, recreation, the arts,
9 entertainment, economic development, safety, and the public
10 welfare in the district.

11 Sec. 38__ .004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
12 The district is created to serve a public use and benefit.

13 (b) All land and other property included in the district
14 will benefit from the improvements and services to be provided by
15 the district under powers conferred by Sections 52 and 52-a,
16 Article III, and Section 59, Article XVI, Texas Constitution, and
17 other powers granted under this chapter.

18 (c) The creation of the district is in the public interest
19 and is essential to:

20 (1) further the public purposes of developing and
21 diversifying the economy of the state;

22 (2) eliminate unemployment and underemployment; and

23 (3) develop or expand transportation and commerce.

24 (d) The district will:

25 (1) promote the health, safety, and general welfare of
26 residents, employers, potential employees, employees, visitors,
27 and consumers in the district, and of the public;

1 (2) provide needed funding for the district to
2 preserve, maintain, and enhance the economic health and vitality of
3 the district territory as a community and business center; and

4 (3) promote the health, safety, welfare, and enjoyment
5 of the public by providing pedestrian ways and by landscaping and
6 developing certain areas in the district, which are necessary for
7 the restoration, preservation, and enhancement of scenic beauty;
8 and

9 (4) provide for water, wastewater, drainage, road, and
10 recreational facilities for the district.

11 (e) Pedestrian ways along or across a street, whether at
12 grade or above or below the surface, and street lighting, street
13 landscaping, parking, and street art objects are parts of and
14 necessary components of a street and are considered to be a street
15 or road improvement.

16 (f) The district will not act as the agent or
17 instrumentality of any private interest even though the district
18 will benefit many private interests as well as the public.

19 Sec. 38__005. INITIAL DISTRICT TERRITORY. (a) The
20 district is initially composed of the territory described by
21 Section 2 of the Act enacting this chapter.

22 (b) The boundaries and field notes contained in Section 2 of
23 the Act enacting this chapter form a closure. A mistake in the field
24 notes or in copying the field notes in the legislative process does
25 not affect the district's:

26 (1) organization, existence, or validity;

27 (2) right to issue any type of bond for the purposes

1 for which the district is created or to pay the principal of and
2 interest on the bond;

3 (3) right to impose or collect an assessment or tax; or

4 (4) legality or operation.

5 Sec. 38__.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

6 All or any part of the area of the district is eligible to be
7 included in:

8 (1) a tax increment reinvestment zone created under
9 Chapter 311, Tax Code;

10 (2) a tax abatement reinvestment zone created under
11 Chapter 312, Tax Code; or

12 (3) an enterprise zone created under Chapter 2303,
13 Government Code.

14 Sec. 38__.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
15 DISTRICTS LAW. Except as otherwise provided by this chapter,
16 Chapter 375, Local Government Code, applies to the district.

17 Sec. 38__.008. LIBERAL CONSTRUCTION OF CHAPTER. This
18 chapter shall be liberally construed in conformity with the
19 findings and purposes stated in this chapter.

20 Sec. 38__.009. CONFIRMATION AND DIRECTORS' ELECTION
21 REQUIRED. The temporary directors shall hold an election to
22 confirm the creation of the district and to elect four permanent
23 directors as provided by Section 49.102, Water Code.

24 Sec. 38__.010. CONSENT OF MUNICIPALITY REQUIRED. (a) The
25 temporary directors may not hold an election under Section 38__.009
26 until the city has consented by ordinance or resolution to the
27 creation of the district and to the inclusion of land in the

1 district.

2 (b) The city may condition its consent to the creation of
3 the district, to the inclusion of land in the district, and to the
4 exercise or limitation of powers granted to the district under this
5 Chapter by requiring the owner of any land included in the district
6 to negotiate and enter into a written agreement with the City of
7 Austin under this Chapter and Sections 43.0563 and 212.172, Local
8 Government Code.

9 (c) An agreement between a municipality and a landowner
10 entered into prior to the effective date of this chapter and that
11 complies with this section is validated.

12 (d) Section 54.016, Water Code, does not apply to the
13 district or to an agreement under this section. An agreement under
14 this section constitutes the city's consent to the creation of the
15 district under Section 42.042, Local Government Code.

16 [Sections 38__.012 - 38__.050 reserved for expansion]

17 SUBCHAPTER B. BOARD OF DIRECTORS

18 Sec. 38 __.051. GOVERNING BODY; TERMS. (a) The district is
19 governed by a board of seven directors. Four of the directors are
20 elected. Three of the directors are appointed under Sec. 38__.053.

21 (b) Except as provided by Sec. 38__.052, directors serve
22 staggered four-year terms, with two elected directors' terms and
23 one or two appointed director's terms expiring on June 1 of each
24 even-numbered year. The term of office for each director first
25 appointed under Sec. 38__.053 shall begin on the date the four
26 permanent directors are elected under Section 38__.009

27 Sec. 38__.052. TEMPORARY DIRECTORS. (a) On or after the

1 effective date of the Act creating this chapter, the owner or owners
2 of a majority of the assessed value of the real property in the
3 district as determined by the most recent certified tax appraisal
4 roll for the county may submit a petition to the Texas Commission on
5 Environmental Quality requesting that the commission appoint as
6 temporary directors the four persons named in the petition. The
7 commission shall appoint as temporary directors the four persons
8 named in the petition.

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

10 (1) the date four permanent directors are elected
11 under Section 38__.009; or

12 (2) the fourth anniversary of the effective date of
13 the Act creating this chapter.

14 (c) If permanent directors have not been elected under
15 Section 38__.009 and the terms of the temporary directors have
16 expired, successor temporary directors shall be appointed or
17 reappointed as provided by Subsection (d) to serve terms that
18 expire on the earlier of:

19 (1) the date four permanent directors are elected
20 under Section 38__.009; or

21 (2) the fourth anniversary of the date of the
22 appointment or reappointment.

23 (d) If Subsection (c) applies, the owner or owners of a
24 majority of the assessed value of the real property in the district
25 according to the most recent certified tax appraisal roll for the
26 county may submit a petition to the commission requesting that the
27 commission appoint as successor temporary directors the four

1 persons named in the petition. The commission shall appoint as
2 successor temporary directors the four persons named in the
3 petition.

4 Sec. 38.053. APPOINTMENT OF DIRECTOR. (a) The City
5 Council of the city shall appoint one director, and may appoint a
6 second director after notice is provided by the board to the city
7 under Subsection (c). A person is appointed if a majority of the
8 members of the City Council vote to appoint that person.

9 (b) The county Commissioners Court shall appoint one
10 director. A person is appointed if a majority of the members of the
11 Commissioners Court vote to appoint that person.

12 (c) The Texas Commission on Environmental Quality shall
13 appoint one director nominated by the board. The board shall
14 request the name of a qualified director nominee from each person
15 who owns at least 25 percent of the surface area of land in the
16 district, based on the most recent certified tax appraisal roll for
17 the county. The board shall nominate to the Texas Commission on
18 Environmental Quality the qualified director nominee whose name was
19 submitted by the person who owns the largest total surface area of
20 land in the district. If the board has not received the name of a
21 qualified director nominee before the 31st day after the date the
22 board requests the name of a qualified director nominee from every
23 person who owns at least 25 percent of the surface area of land in
24 the district, or if no person owns at least 25 percent of the
25 surface area of land in the district, the board shall notify the
26 city that it may appoint a second director under Subsection (a), and
27 no appointment shall be made under this subsection.

1 Sec. 38__.054 QUALIFICATIONS OF DIRECTOR. (a) To be
2 qualified to be elected and serve as an elected director or to be
3 qualified to be appointed and serve as an appointed director under
4 Subsection (c) of Section 38__.053, a person must be at least 18
5 years old and:

6 (1) a resident of the district; or

7 (2) an owner of property in the district.

8 (b) A director appointed under Section 38__.052 or
9 Subsection (a) or (b) of Section 38__.053 must be at least 18 years
10 old.

11 (c) A person who qualifies to serve as a director under this
12 section is subject to Section 375.072, Local Government Code.

13 Sec. 38__.055. DIRECTOR VACANCY. A vacancy in the office of
14 an elected director shall be filled for the unexpired term by the
15 majority vote of the remaining members of the board. A vacancy in
16 the office of a director appointed under Section 38__.053 shall be
17 filled for the unexpired term by a new director appointed under that
18 section.

19 Sec. 38__.056. QUORUM. (a) A majority of the directors
20 constitutes a quorum, and a concurrence of a majority of the
21 directors is required for any official action of the district
22 unless a lesser or greater number of votes is provided by other law.
23 The written consent of at least two-thirds of the directors is
24 required to authorize the levy of assessments, the levy of taxes,
25 the imposition of impact fees, or the issuance of bonds.

26 (b) For purposes of determining the requirements for a
27 majority of the board under this section, the following are not

1 counted:

2 (1) a board position vacant for any reason, including
3 death, resignation, or disqualification; or

4 (2) a director who is abstaining from participation in
5 a vote because of a conflict of interest.

6 Sec. 38__.057. COMPENSATION. A director is entitled to
7 receive fees of office and reimbursement for actual expenses as
8 provided by Section 49.060, Water Code.

9 [Sections 38__.058 - 38__.100 reserved for expansion]

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 38__.101. GENERAL POWERS AND DUTIES. The district has
12 the powers and duties provided by:

13 (1) the general laws relating to conservation and
14 reclamation districts created under Section 59, Article XVI, Texas
15 Constitution, including Chapters 49 and 54, Water Code;

16 (2) Section 52, Article III, Texas Constitution,
17 including the power to design, acquire, construct, finance, issue
18 bonds for, improve, operate, maintain, and convey to this state, a
19 county, or a municipality for operation and maintenance
20 macadamized, graveled, or paved roads, or improvements, including
21 storm drainage, in aid of those roads;

22 (3) Subchapter A, Chapter 372, Local Government Code,
23 in the same manner as a municipality or a county;

24 (4) Chapter 375, Local Government Code;

25 (5) Chapter 380, Local Government Code, in the same
26 manner as a municipality;

27 (6) Chapter 394, Local Government Code, to a housing

1 finance corporation created and operating under that chapter, in
2 the same manner as a housing finance corporation;

3 (7) Subchapter C, Chapter 402, Local Government Code,
4 in the same manner as a municipality; and

5 (8) Chapters 501, 502, and 505, Local Government Code,
6 in the same manner as a municipality to which one or more of those
7 chapters applies.

8 Sec. 38__ .102. AGREEMENTS; GRANTS. (a) The district may
9 make an agreement with or accept a gift, grant, or loan from any
10 person. A service agreement made by the district shall be
11 terminable at will and without penalty upon 30 days notice of
12 termination, unless the district secures the written consent of the
13 City of Austin to modify or exclude those termination provisions,
14 except for service agreements with the following persons or
15 entities:

16 (1) a developer of land within the district, as
17 defined by Section 49.052(d), Water Code;

18 (2) a government agency, entity, or political
19 subdivision;

20 (3) a retail public utility or electric cooperative,
21 concerning water, wastewater, gas, electricity, telecommunication,
22 drainage, or other utility services and facilities; or

23 (4) a provider of services relating to solid waste
24 collection, transfer, processing, reuse, resale, disposal, and
25 management.

26 (b) The implementation of a project is a governmental
27 function or service for the purposes of Chapter 791, Government

1 Code.

2 (c) The board may enter into a contract with the board of
3 directors of a tax increment reinvestment zone created under
4 Chapter 311, Tax Code, and the governing body of the municipality or
5 county that created the zone to manage the zone or implement the
6 project plan and reinvestment zone financing plan.

7 Sec. 38__ .103. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT
8 AND FIRE-FIGHTING SERVICES. (a) To protect the public interest,
9 the district may contract with a qualified party, including the
10 county or the city, for the provision of law enforcement services in
11 the district for a fee.

12 (b) The district may provide fire-fighting services under
13 Section 49.351, Water Code and has the powers and duties of a
14 municipality under Section 775.022, Health & Safety Code.

15 Sec. 38__ .104. ECONOMIC DEVELOPMENT PROGRAMS. The district
16 may establish and provide for the administration of one or more
17 programs to promote state or local economic development and to
18 stimulate business and commercial activity in the district,
19 including programs to:

20 (1) make loans and grants of public money; and

21 (2) provide district personnel and services.

22 Sec. 38__ .105. STRATEGIC PARTNERSHIP AGREEMENT. The
23 district may negotiate and enter into a written strategic
24 partnership with the City of Austin under Section 43.0751, Local
25 Government Code. A power granted to the district under this Chapter
26 may be restricted or prohibited by the terms and conditions of an
27 agreement between the City of Austin and the district under this

1 section.

2 Sec. 38__.106. LIMITED EMINENT DOMAIN. (a) The district
3 may exercise the power of eminent domain under Section 49.222,
4 Water Code.

5 (b) The district may not exercise the power of eminent
6 domain outside the district boundaries to acquire:

7 (1) a site for a water treatment plant, water storage
8 facility, wastewater treatment plant, or wastewater disposal
9 plant; or

10 (2) a recreational facility as defined by Section
11 49.462, Water Code.

12 Sec. 38__.107. ANNEXATION OR EXCLUSION OF LAND BY DISTRICT.

13 (a) The district may annex land as provided by Subchapter J,
14 Chapter 49, Water Code.

15 (b) The district may exclude land as provided by Subchapter
16 J, Chapter 49, Water Code. Section 375.044(b), Local Government
17 Code, does not apply to the district.

18 Sec 38__.108. SUITS. The District shall not be a voluntary
19 party to any suit against the city by a district resident or a
20 person who owns property in the district unless the district has
21 standing to bring the suit.

22 [Sections 38__.109 - 38__.150 reserved for expansion]

23 SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

24 Sec. 38__.151. PUBLIC TRANSIT SYSTEM. (a) The district may
25 acquire, lease as lessor or lessee, construct, develop, own,
26 operate, and maintain a public transit system to serve the area
27 within the boundaries of the district.

1 (b) The district may contract with a regional transit
2 authority for the provision of a public transit system and public
3 transit services.

4 Sec. 38__ .152. PARKING FACILITIES AUTHORIZED; OPERATION BY
5 PRIVATE ENTITY; TAX EXEMPTION. (a) The district may acquire, lease
6 as lessor or lessee, construct, develop, own, operate, and maintain
7 parking facilities or a system of parking facilities, including:

8 (1) lots, garages, parking terminals, or other
9 structures or accommodations for parking motor vehicles off the
10 streets; and

11 (2) equipment, entrances, exits, fencing, and other
12 accessories necessary for safety and convenience in parking
13 vehicles.

14 (b) A parking facility of the district may be leased to, or
15 operated for the district by, an entity other than the district.

16 (c) The district's parking facilities are a program
17 authorized by the legislature under Section 52-a, Article III,
18 Texas Constitution.

19 (d) The district's parking facilities serve the public
20 purposes of the district and are owned, used, and held for a public
21 purpose even if leased or operated by a private entity for a term of
22 years.

23 (e) The district's public parking facilities and any lease
24 to a private entity are exempt from the payment of ad valorem taxes
25 and state and local sales and use taxes.

26 Sec. 38__ .153. RULES. The district may adopt rules
27 covering its public transit system or its public parking system.

1 Sec. 38__.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR
2 PARKING FACILITIES. (a) The district may use any of its resources,
3 including revenue, assessments, taxes, or grant or contract
4 proceeds, to pay the cost of acquiring or operating a public transit
5 system or public parking facilities.

6 (b) The district may:

7 (1) set, charge, impose, and collect fees, charges, or
8 tolls for the use of the public transit system or the public parking
9 facilities; and

10 (2) issue bonds or notes to finance the cost of these
11 facilities.

12 [Sections 38__.155 - 38__.200 reserved for expansion]

13 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

14 Sec. 38__.201. DISBURSEMENTS AND TRANSFERS OF MONEY. The
15 board by resolution shall establish the number of directors'
16 signatures and the procedure required for a disbursement or
17 transfer of the district's money.

18 Sec. 38__.202. MONEY USED FOR IMPROVEMENTS OR SERVICES.
19 The district may acquire, construct, finance, operate, or maintain
20 any improvement or service authorized under this chapter or Chapter
21 375, Local Government Code, using any money available to the
22 district.

23 Sec. 38__.203. PETITION REQUIRED FOR FINANCING SERVICES AND
24 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
25 service or improvement project with assessments under this chapter
26 unless a written petition requesting that service or improvement
27 has been filed with the board.

1 (b) A petition filed under Subsection (a) must be signed by
2 the owners of a majority of the assessed value of the real property
3 in the district subject to assessment as determined by the most
4 recent certified tax appraisal roll for the county.

5 Sec. 38__.204. METHOD OF NOTICE FOR HEARING. The district
6 may mail the notice required by Section 375.115(c), Local
7 Government Code, by certified or first class United States mail.
8 The board shall determine the method of notice.

9 Sec. 38__.205. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
10 The board by resolution may impose and collect an assessment for any
11 purpose authorized by this chapter in all or any part of the
12 district.

13 (b) An assessment, a reassessment, or an assessment
14 resulting from an addition to or correction of the assessment roll
15 by the district, penalties and interest on an assessment or
16 reassessment, an expense of collection, and reasonable attorney's
17 fees incurred by the district:

18 (1) are a first and prior lien against the property
19 assessed;

20 (2) are superior to any other lien or claim other than
21 a lien or claim for county, school district, or municipal ad valorem
22 taxes; and

23 (3) are the personal liability of and a charge against
24 the owners of the property even if the owners are not named in the
25 assessment proceedings.

26 (c) The lien is effective from the date of the board's
27 resolution imposing the assessment until the date the assessment is

1 paid. The board may enforce the lien in the same manner that the
2 board may enforce an ad valorem tax lien against real property.

3 (d) The board may make a correction to or deletion from the
4 assessment roll that does not increase the amount of assessment of
5 any parcel of land without providing notice and holding a hearing in
6 the manner required for additional assessments.

7 Sec. 38__.206. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
8 ASSESSMENTS. The district may not impose an impact fee or
9 assessment on the property, including the equipment,
10 rights-of-way, facilities, or improvements, of:

11 (1) an electric utility or a power generation company
12 as defined by Section 31.002, Utilities Code;

13 (2) a gas utility as defined by Section 101.003 or
14 121.001, Utilities Code;

15 (3) a telecommunications provider as defined by
16 Section 51.002, Utilities Code; or

17 (4) a person who provides to the public cable
18 television or advanced telecommunications services.

19 Sec. 38__.207. RESIDENTIAL PROPERTY. Section 375.161,
20 Local Government Code, does not apply to the district.

21 Sec. 38__.208. OPERATION AND MAINTENANCE TAX. (a) If
22 authorized at an election held in accordance with Section 38__.212,
23 the district may impose an operation and maintenance tax on taxable
24 property in the district in accordance with Section 49.107, Water
25 Code, for any district purpose, including to:

26 (1) maintain and operate the district;

27 (2) construct or acquire improvements; or

1 (3) provide a service.

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

4 Sec. 38__.209. CONTRACT TAXES. (a) In accordance with
5 Section 49.108, Water Code, the district may impose a tax other than
6 an operation and maintenance tax and use the revenue derived from
7 the tax to make payments under a contract after the provisions of
8 the contract have been approved by a majority of the district voters
9 voting at an election held for that purpose.

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

13 Sec. 38__.210. AUTHORITY TO ISSUE BONDS. (a) The district
14 may issue by competitive bid bonds, notes, or other obligations
15 payable wholly or partly from taxes, assessments, impact fees,
16 revenue, grants, or other money of the district, or any combination
17 of those sources of money, to pay for any authorized district
18 purpose.

19 (b) The limitation on the outstanding principal amount of
20 bonds, notes, and other obligations set forth in Section 49.4645,
21 Water Code, does not apply to the district.

22 Sec. 38__.211. CITY APPROVAL OF DISTRICT BONDS. (a) No
23 later than 30 days before the first publication of notice of sale of
24 a district bond, the district shall provide to the city a copy of
25 the district's application to the Texas Commission on Environmental
26 Quality for approval of the bond sale, a copy of the staff
27 memorandum from the Texas Commission on Environmental Quality

1 approving the projects and the bonds, the proposed bond resolution,
2 the preliminary official statement for the bond sale, the bid form,
3 and the notice of sale, as applicable.

4 (b) The city may refuse to approve a bond sale only if the
5 city determines that issuance of the bonds would cause the district
6 to be substantially out of compliance with a material provision of a
7 written agreement with the city under Section 38__.010, Section
8 38__.105, or any other written agreement with the city pertaining
9 to the district's creation or operation.

10 (c) The city shall notify the district of its refusal to
11 approve a bond sale under Subsection (b) no later than the 15th day
12 after its receipt of the information provided under Subsection (a),
13 or the bond sale shall be deemed to be approved by the City.

14 (d) The district shall not issue or sell a bond that the city
15 has refused to approve under this section.

16 Sec. 38__.212. TAXES FOR BONDS. At the time the district
17 issues bonds payable wholly or partly from ad valorem taxes, the
18 board shall provide for the annual imposition of a continuing
19 direct annual ad valorem tax, without limit as to rate or amount,
20 for each year while all or part of the bonds are outstanding as
21 required and in the manner provided by Sections 54.601 and 54.602,
22 Water Code.

23 Sec. 38__.213. ELECTIONS REGARDING TAXES AND BONDS. (a)
24 The district may issue, without an election, bonds, notes, and
25 other obligations secured by:

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

27 (2) contract payments described by Section 38__.209.

1 (b) The district shall hold an election in the manner
2 provided by Subchapter L, Chapter 375, Local Government Code, to
3 obtain voter approval before the district imposes an ad valorem tax
4 or sales and use tax or issues bonds payable from ad valorem taxes.

5 (c) Section 375.243, Local Government Code, does not apply
6 to the district.

7 (d) All or any part of any facilities or improvements which
8 may be acquired by a district by the issuance of its bonds may be
9 included in one single proposition to be voted on at the election or
10 the bonds may be submitted in several propositions.

11 Sec 38__.214. CITY NOT REQUIRED TO PAY DISTRICT
12 OBLIGATIONS. Except as provided by Section 375.263, Local
13 Government Code, the city is not required to pay a bond, note, or
14 other obligation of the district.

15 Sec. 38__.215. COMPETITIVE BIDDING. Subchapter I, Chapter
16 49, Water Code, applies to the district. Subchapter K, Chapter 375,
17 Local Government Code, does not apply to the district if the
18 district complies with the requirements of Section 375.222, Local
19 Government Code, as it existed on January 1, 2009.

20 Sec. 38__.216. TAX AND ASSESSMENT ABATEMENTS. The district
21 may grant in the manner authorized by Chapter 312, Tax Code, an
22 abatement for a tax or assessment owed to the district.

23 Sec. 38__.217. TAX INCREMENT FINANCING POWERS. (a) The
24 district may designate all or any part of the district as a tax
25 increment reinvestment zone, and the district may use tax increment
26 financing under Chapter 311, Tax Code, in the manner provided by
27 that chapter for a municipality, except as modified by this

1 section.

2 (b) The district has all powers provided under Chapter 311,
3 Tax Code.

4 (c) The district and an overlapping taxing unit may enter
5 into an interlocal agreement for the payment of all or a portion of
6 the tax increment of the unit to the district.

7 (d) For the purpose of tax increment financing under this
8 section, the board functions as the board of directors of the
9 reinvestment zone. Section 311.009, Tax Code, does not apply to the
10 district.

11 [Sections 38__.218 - 38__.300 reserved for expansion]

12 SUBCHAPTER F. SALES AND USE TAX

13 Sec. 38__.301. MEANINGS OF WORDS AND PHRASES. Words and
14 phrases used in this subchapter that are defined by Chapters 151 and
15 321, Tax Code, have the meanings assigned by Chapters 151 and 321,
16 Tax Code.

17 Sec. 38__.302. APPLICABILITY OF CERTAIN TAX CODE
18 PROVISIONS. (a) Except as otherwise provided by this subchapter,
19 Subtitles A and B, Title 2, Tax Code, and Chapter 151, Tax Code,
20 apply to taxes imposed under this subchapter and to the
21 administration and enforcement of those taxes in the same manner
22 that those laws apply to state taxes.

23 (b) Chapter 321, Tax Code, relating to municipal sales and
24 use taxes, applies to the application, collection, charge, and
25 administration of a sales and use tax imposed under this subchapter
26 to the extent consistent with this chapter, as if references in
27 Chapter 321, Tax Code, to a municipality referred to the district

1 and references to a governing body referred to the board.

2 (c) Sections 321.106, 321.401, 321.402, 321.403, 321.404,
3 321.406, 321.409, 321.506, 321.507, and 321.508, Tax Code, do not
4 apply to a tax imposed under this subchapter.

5 Sec. 38__.303. AUTHORIZATION; ELECTION. (a) The district
6 may adopt a sales and use tax to serve the purposes of the district
7 after an election in which a majority of the voters of the district
8 voting in the election authorize the adoption of the tax.

9 (b) The board by order may call an election to authorize a
10 sales and use tax. The election may be held with any other district
11 election.

12 (c) The district shall provide notice of the election and
13 shall hold the election in the manner prescribed by Section 38.212.

14 (d) The ballots shall be printed to provide for voting for
15 or against the proposition: "Authorization of a sales and use tax in
16 Austin Desired Development Zone Management District No. 5 at a rate
17 not to exceed [] percent."

18 Sec. 38__.304. ABOLISHING SALES AND USE TAX. (a) Except as
19 provided in Subsection (b), the board may abolish the sales and use
20 tax without an election.

21 (b) The board may not abolish the sales and use tax if the
22 district has outstanding debt secured by the tax.

23 (c) Notwithstanding subsection (b), a sales and use tax
24 adopted under this subchapter is automatically abolished on the
25 effective date of full-purpose annexation by the city of the
26 district.

27 Sec. 38__.305. SALES AND USE TAX RATE. (a) On adoption of

1 the tax authorized by this subchapter, there is imposed a tax on the
2 receipts from the sale at retail of taxable items within the
3 district, and an excise tax on the use, storage, or other
4 consumption within the district of taxable items purchased, leased,
5 or rented from a retailer within the district during the period that
6 the tax is in effect.

7 (b) The board shall determine the rate of the tax, which may
8 be in one-eighth of one percent increments not to exceed the maximum
9 rate authorized by the district voters at the election. The board
10 may lower the tax rate to the extent it does not impair any
11 outstanding debt or obligations payable from the tax.

12 (c) The rate of the excise tax is the same as the rate of the
13 sales tax portion of the tax and is applied to the sales price of the
14 taxable item.

15 [Sections 38__306 - 38__350 reserved for expansion]

16 SUBCHAPTER G. HOTEL OCCUPANCY TAXES

17 Sec. 38__351. HOTEL OCCUPANCY TAX. (a) In this section,
18 "hotel" has the meaning assigned by Section 156.001, Tax Code.

19 (b) For purposes of this section, a reference in Chapter
20 351, Tax Code, to a municipality is a reference to the district and
21 a reference in Chapter 351, Tax Code, to the municipality's
22 officers or governing body is a reference to the board.

23 (c) Except as inconsistent with this section, Subchapter A,
24 Chapter 351, Tax Code, governs a hotel occupancy tax authorized by
25 this section.

26 (d) The district may impose a hotel occupancy tax and may
27 use revenue from the tax for any district purpose that is also an

1 authorized use of hotel occupancy tax revenue under Chapter 351,
2 Tax Code.

3 (e) The board by order may impose, repeal, increase, or
4 decrease the rate of a tax on a person who, under a lease,
5 concession, permit, right of access, license, contract, or
6 agreement, pays for the use or possession or for the right to the
7 use or possession of a room that:

8 (1) is in a hotel located in the district's boundaries;

9 (2) costs \$2 or more each day; and

10 (3) is ordinarily used for sleeping.

11 (f) The amount of the tax may not exceed seven percent of the
12 price paid for a room in a hotel.

13 (g) The district may examine and receive information
14 related to the imposition of hotel occupancy taxes to the same
15 extent as if the district were a municipality.

16 (h) A hotel occupancy tax imposed under this subchapter is
17 automatically abolished on the effective date of full-purpose
18 annexation by the city of the district.

19 [Sections 38__.352 - 38__.400 reserved for expansion]

20 SUBCHAPTER H. DISSOLUTION

21 Sec. 38__.401 DISSOLUTION. (a) The district may not be
22 dissolved under Subchapter M, Chapter 375, Local Government Code,
23 or any other law that authorizes dissolution of the district until
24 and unless all of the district's outstanding indebtedness and
25 contractual obligations payable from ad valorem taxes, sales and
26 use taxes, assessments, or other revenue sources are paid in full or
27 payment is fully provided for.

1 (b) If the conditions of subsection (a) are satisfied, the
2 district may be dissolved by the affirmative vote of at least five
3 of the directors of the board. If the conditions of subsection (a)
4 are satisfied after the district has been annexed into the city for
5 full purposes, the city may dissolve the district by the majority
6 vote of its governing body.

7 (c) Dissolution of the district shall be in accordance with
8 the terms and conditions of this section and of the agreement
9 between the landowner and the city under Section 38.010.

10 (d) Sections 43.075 and 43.0715, Local Government Code, do
11 not apply to the district.

12 SECTION 2. Austin Desired Development Zone District No. 5
13 includes all territory contained in the following area:

14 DESCRIPTION OF 339.251 ACRES IN THE SANTIAGO DEL VALLE GRANT
15 IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 167.748 ACRE TRACT
16 DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC.,
17 DATED DECEMBER 13, 2006 AND RECORDED IN DOCUMENT NO. 2006241307 OF
18 THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A
19 98.656 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA
20 ACQUISITION INC., DATED OCTOBER 19, 2006 AND RECORDED IN DOCUMENT
21 NO. 2006204344 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY,
22 TEXAS, A PORTION OF A 60.921 ACRE TRACT DESCRIBED IN A SPECIAL
23 WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 12, 2006 AND
24 RECORDED IN DOCUMENT NO. 2006239174 OF THE OFFICIAL PUBLIC RECORDS
25 OF TRAVIS COUNTY, TEXAS, A PORTION OF A 55.222 ACRE TRACT DESCRIBED
26 IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2,
27 2006 AND RECORDED IN DOCUMENT NO. 2006060712 OF THE OFFICIAL PUBLIC

1 RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 25.119 ACRE TRACT
2 DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC.,
3 DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2006060707 OF THE
4 OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A
5 7.602 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA
6 ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO.
7 2006060704 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS,
8 A PORTION OF A 23.694 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY
9 DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN
10 DOCUMENT NO. 2006060710 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS
11 COUNTY, TEXAS, A PORTION OF A 42.558 ACRE TRACT DESCRIBED IN A
12 GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MAY 16, 2008
13 AND RECORDED IN DOCUMENT NO. 2008083861 OF THE OFFICIAL PUBLIC
14 RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF WENDE ROAD, A PUBLIC
15 ROAD IN TRAVIS COUNTY, TEXAS HAVING A RIGHT-OF-WAY WIDTH OF 40 FEET,
16 AND A PORTION OF SASSMAN ROAD, A PUBLIC ROAD IN TRAVIS COUNTY, TEXAS
17 HAVING A RIGHT-OF-WAY OF VARIABLE WIDTH.

18 SAVE AND EXCEPT LOT ONE, J.P. COTMAN ADDITION, AN ADDITION TO
19 TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF,
20 RECORDED IN VOLUME 79, PAGE 60, OF THE PLAT RECORDS OF TRAVIS
21 COUNTY, TEXAS, CONVEYED TO JUAN YESCAS AND MARIA R. YESCAS IN A
22 WARRANTY DEED, DATED DECEMBER 30, 2004 AND RECORDED IN DOCUMENT NO.
23 2004242191 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS,
24 A 2.50 ACRE TRACT DESCRIBED IN AN INDEPENDENT EXECUTOR'S SPECIAL
25 WARRANTY DEED TO MICHAEL L. APPLGATE AND HARMONY D. APPLGATE,
26 DATED OCTOBER 23 2003 AND RECORDED IN DOCUMENT NO. 2003268689 OF THE
27 OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS, A 3.213 ACRES TRACT

1 DESCRIBED IN A DEED, WITH VENDOR'S LIEN TO MARIO RODRIGUEZ & EMMA
2 RODRIGUEZ, DATED FEBRUARY 4, 1983 AND RECORDED IN VOLUME 7998, PAGE
3 656 OF THE DEED RECORDS OF TRAVIS COUNTY TEXAS, A 2.50 ACRE TRACT
4 DESCRIBED IN A DEED TO H. E. THYSSEN & MARGARET THYSSEN, DATED JUNE
5 3, 1977 AND RECORDED IN VOLUME 5827, PAGE 2441 OF THE DEED RECORDS
6 OF TRAVIS COUNTY TEXAS, A 0.201 ACRE TRACT DESCRIBED IN A WARRANTY
7 DEED TO LARRY THYSSEN, DATED OCTOBER 31, 2006 AND RECORDED IN
8 DOCUMENT NO. 2006224848 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS
9 COUNTY TEXAS; SAID 339.251 ACRE TRACT BEING MORE PARTICULARLY
10 DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

11 BEGINNING at a 1/2" rebar with "Chaparral Boundary" cap found
12 for the southeast corner of said 167.748 acre tract, same being in
13 the west right-of-way line of F.M. 1625 (80' right-of-way), also
14 being in the north right-of-way line of Sassman Road (right-of-way
15 width varies);

16 THENCE South 27°11'52" West, crossing Sassman Road with the
17 west right-of-way line of F.M. 1625, a distance of 70.00 feet to a
18 1/2" iron rod found for the northeast corner of said 98.656 acre
19 tract;

20 THENCE with the west right-of-way line of F. M. 1625, same
21 being the east line of said 98.656 acre tract, the following two (2)
22 courses and distances:

23 1. South 27°11'52" West, a distance of 2856.46 feet to a
24 concrete highway monument found 40 feet right of TxDOT centerline
25 station 115+77;

26 2. South 27°04'38" West, a distance of 352.97 feet to a
27 calculated point in said line;

1 THENCE crossing said 98.656 acre tract, said 60.921 acre
2 tract, said 51.942 acre tract, said 55.222 acre tract, said 25.119
3 acre tract, said 7.602 acre tract, said 23.694 acre tract, Sassman
4 Road, said 42.558 acre tract, and said 167.748 acre tract the
5 following fifteen (15) courses and distances:

6 1. North $62^{\circ}55'22''$ West, a distance of 149.13 feet to a
7 calculated point;

8 2. With a curve to the right, having a radius of 1800.01
9 feet, a delta angle of $68^{\circ}24'29''$, an arc length of 2149.12 feet, and
10 a chord which bears North $28^{\circ}43'07''$ West, a distance of 2023.72 feet
11 to a calculated point;

12 3. North $05^{\circ}29'07''$ East, a distance of 423.15 feet to a
13 calculated point;

14 4. With a curve to the left, having a radius of 1000.01 feet,
15 a delta angle of $40^{\circ}36'48''$, an arc length of 708.84 feet, and a chord
16 which bears North $14^{\circ}49'17''$ West, a distance of 694.10 feet to a
17 calculated point;

18 5. North $35^{\circ}07'41''$ West, a distance of 344.76 feet to a
19 calculated point;

20 6. North $54^{\circ}52'19''$ East, a distance of 25.40 feet to a
21 calculated point;

22 7. With a curve to the left, having a radius of 500.00 feet,
23 a delta angle of $96^{\circ}25'47''$, an arc length of 841.51 feet, and a chord
24 which bears North $06^{\circ}39'26''$ East, a distance of 745.65 feet to a
25 calculated point;

26 8. North $41^{\circ}33'28''$ West, a distance of 324.65 feet to a
27 calculated point;

1 9. With a curve to the right, having a radius of 500.00 feet,
2 a delta angle of $69^{\circ}45'07''$, an arc length of 608.70 feet, and a chord
3 which bears North $06^{\circ}40'55''$ West, a distance of 571.80 feet to a
4 calculated point;

5 10. North $28^{\circ}11'39''$ East, a distance of 1655.67 feet to a
6 calculated point;

7 11. South $61^{\circ}48'21''$ East, a distance of 1129.78 feet to a
8 calculated point;

9 12. With a curve to the left, having a radius of 1400.00
10 feet, a delta angle of $31^{\circ}17'39''$, an arc length of 764.66 feet, and a
11 chord which bears South $77^{\circ}27'10''$ East, a distance of 755.19 feet to
12 a calculated point;

13 13. North $86^{\circ}54'01''$ East, a distance of 948.17 feet to a
14 calculated point;

15 14. With a curve to the right, having a radius of 1400.01
16 feet, a delta angle of $30^{\circ}17'26''$, an arc length of 740.14 feet, and a
17 chord which bears South $77^{\circ}57'16''$ East, a distance of 731.55 feet to
18 a calculated point;

19 15. South $62^{\circ}48'33''$ East, a distance of 209.65 feet to a
20 calculated point in the west right-of-way line of said F.M. 1625,
21 same being the southeast line of said 167.748 acre tract;

22 THENCE with the west right-of-way line of F.M. 1625, same
23 being the southeast line of said 167.748 acre tract, the following
24 two (2) courses and distances:

25 1. South $27^{\circ}05'45''$ West, a distance of 1346.91 feet to a
26 concrete highway monument found;

27 2. South $27^{\circ}19'52''$ West, a distance of 601.74 feet to a $1/2''$

1 rebar with "Chaparral Boundary" cap found at the east corner of a
2 2.99 acre tract described in a deed of record in Document No.
3 2005117402 of the Official Public Records of Travis County, Texas,
4 from which a 1/2" rebar found bears South 62°17'33" East, a distance
5 of 0.61 feet;

6 THENCE continuing with the southeast line of said 167.748
7 acre tract, same being the northeast, northwest, and southwest
8 lines of said 2.99 acre tract, the following three (3) courses and
9 distances:

10 1. North 62°14'19" West, a distance of 361.02 feet to a 1/2"
11 rebar found;

12 2. South 27°25'52" West, a distance of 360.78 feet to a 1/2"
13 rebar found;

14 3. South 62°14'19" East, a distance of 361.65 feet to a 1/2"
15 rebar with "Chaparral Boundary" cap found in the west right-of-way
16 line of F.M. 1625, same being the south corner of said 2.99 acre
17 tract;

18 THENCE continuing with the southeast line of said 167.748
19 acre tract, same being the west right-of-way line of F.M. 1625, the
20 following two (2) courses and distances:

21 1. South 27°19'52" West, a distance of 361.72 feet to a 1/2"
22 rebar with "Chaparral Boundary" cap found;

23 2. South 27°11'52" West, a distance of 434.71 feet to the
24 POINT OF BEGINNING, containing 339.251 acres of land, more or less.

25 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
26 that:

27 (1) The development or redevelopment in the area in the

1 proposed Austin Desired Development Zone District No. 5 would not
2 occur solely through private investment in the reasonably
3 foreseeable future;

4 (2) The area in the proposed Austin Desired Development Zone
5 District No. 5 is unproductive and underdeveloped; and

6 (3) The conditions in the area of the proposed Austin
7 Desired Development Zone District No. 5 substantially arrest or
8 impair the sound growth of the area, are an economic or social
9 liability, and present a menace to the public health, safety,
10 morals, or welfare.

11 SECTION 4. (a) The legal notice of the intention to
12 introduce this Act, setting forth the general substance of this
13 Act, has been published as provided by law, and the notice and a
14 copy of this Act have been furnished to all persons, agencies,
15 officials, or entities to which they are required to be furnished
16 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
17 Government Code.

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

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

25 (d) The general law relating to consent by political
26 subdivisions to the creation of districts with conservation,
27 reclamation, and road powers and the inclusion of land in those

1 districts has been complied with.

2 (e) All requirements of the constitution and laws of this
3 state and the rules and procedures of the legislature with respect
4 to the notice, introduction, and passage of this Act have been
5 fulfilled and accomplished.

6 SECTION 5. EFFECTIVE DATE. This Act takes effect
7 immediately if it receives a vote of two-thirds of all the members
8 elected to each house, as provided by Section 39, Article III, Texas
9 Constitution. If this Act does not receive the vote necessary for
10 immediate effect, this Act takes effect September 1, 2009.