

By: Kuempel

H.B. No. 4754

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Guadalupe County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting a limited 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 8358 to read as follows:

CHAPTER 8358. GUADALUPE COUNTY MUNICIPAL UTILITY DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8358.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Guadalupe County Municipal Utility District No. 3.

Sec. 8358.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8358.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8358.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8358.003 until each municipality in whose corporate limits or

1 extraterritorial jurisdiction the district is located has:

2 (1) consented by ordinance or resolution to the
3 creation of the district and to the inclusion of land in the
4 district subsequent to the effective date of the Act creating this
5 chapter; and

6 (2) approved and entered into a development agreement
7 with the owners of land within the district under Section 212.172,
8 Local Government Code.

9 Sec. 8358.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
10 The district is created to serve a public purpose and benefit.

11 (b) The district is created to accomplish the purposes of:

12 (1) a municipal utility district as provided by
13 general law and Section 59, Article XVI, Texas Constitution; and

14 (2) Section 52, Article III, Texas Constitution, that
15 relate to the construction, acquisition, improvement, operation,
16 or maintenance of macadamized, graveled, or paved roads, or
17 improvements, including storm drainage, in aid of those roads.

18 Sec. 8358.006. INITIAL DISTRICT TERRITORY. (a) The
19 district is initially composed of the territory described by
20 Section 2 of the Act creating this chapter.

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

25 (1) organization, existence, or validity;

26 (2) right to issue any type of bond for the purposes
27 for which the district is created or to pay the principal of and

1 interest on a bond;

2 (3) right to impose a tax; or

3 (4) legality or operation.

4 [Sections 8358.007-8358.050 reserved for expansion]

5 SUBCHAPTER B. BOARD OF DIRECTORS

6 Sec. 8358.051. GOVERNING BODY; TERMS. (a) The district is
7 governed by a board of five elected directors.

8 (b) Except as provided by Section 8358.052, directors serve
9 staggered four-year terms.

10 Sec. 8358.052. TEMPORARY DIRECTORS. (a) On or after the
11 effective date of the Act creating this chapter, the owner or owners
12 of a majority of the assessed value of the real property in the
13 district may submit a petition to the Texas Commission on
14 Environmental Quality requesting that the commission appoint as
15 temporary directors the five persons named in the petition. The
16 commission shall appoint as temporary directors the five persons
17 named in the petition.

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

19 (1) the date permanent directors are elected under
20 Section 8358.003; or

21 (2) the fourth anniversary of the effective date of
22 the Act creating this chapter.

23 (c) If permanent directors have not been elected under
24 Section 8358.003 and the terms of the temporary directors have
25 expired, successor temporary directors shall be appointed or
26 reappointed as provided by Subsection (d) to serve terms that
27 expire on the earlier of:

1 (1) the date permanent directors are elected under
2 Section 8358.003; or

3 (2) the fourth anniversary of the date of the
4 appointment or reappointment.

5 (d) If Subsection (c) applies, the owner or owners of a
6 majority of the assessed value of the real property in the district
7 may submit a petition to the Texas Commission on Environmental
8 Quality requesting that the commission appoint as successor
9 temporary directors the five persons named in the petition. The
10 commission shall appoint as successor temporary directors the five
11 persons named in the petition.

12 [Sections 8358.053-8358.100 reserved for expansion]

13 SUBCHAPTER C. POWERS AND DUTIES

14 Sec. 8358.101. GENERAL POWERS AND DUTIES. The district has
15 the powers and duties necessary to accomplish the purposes for
16 which the district is created.

17 Sec. 8358.102. MUNICIPAL UTILITY DISTRICT POWERS AND
18 DUTIES. The district has the powers and duties provided by the
19 general law of this state, including Chapters 49 and 54, Water Code,
20 applicable to municipal utility districts created under Section 59,
21 Article XVI, Texas Constitution.

22 Sec. 8358.103. AUTHORITY FOR ROAD PROJECTS. Under Section
23 52, Article III, Texas Constitution, the district may design,
24 acquire, construct, finance, issue bonds for, improve, operate,
25 maintain, and convey to this state, a county, or a municipality for
26 operation and maintenance macadamized, graveled, or paved roads, or
27 improvements, including storm drainage, in aid of those roads.

1 Sec. 8358.104. APPROVAL OF ROAD PROJECT. (a) The district
2 may not undertake a road project authorized by Section 8358.103
3 unless:

4 (1) each municipality or county that will operate and
5 maintain the road has approved the plans and specifications of the
6 road project; or

7 (2) the Texas Transportation Commission approves the
8 plans and specifications of the road project, if the state will
9 operate and maintain the road.

10 (b) Except as provided by Subsection (a), the district is
11 not required to obtain approval from the Texas Transportation
12 Commission to design, acquire, construct, finance, issue bonds for,
13 improve, or convey a road project.

14 Sec. 8358.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
15 OR RESOLUTION. (a) The district shall comply with all applicable
16 requirements of any ordinance or resolution that is adopted under
17 Section 54.016 or 54.0165, Water Code, and that consents to the
18 creation of the district or to the inclusion of land in the
19 district.

20 (b) For purposes of Section 54.016, Water Code, the district
21 is a city service district for the limited purpose of establishing
22 consent conditions.

23 Sec. 8358.106. LIMITATION ON USE OF EMINENT DOMAIN. The
24 district may not exercise the power of eminent domain outside the
25 district to acquire a site or easement for:

26 (1) a road project authorized by Section 8358.103; or

27 (2) a recreational facility as defined by Section

1 49.462, Water Code.

2 [Sections 8358.107-8358.150 reserved for expansion]

3 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

4 Sec. 8358.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
5 district may issue, without an election, bonds and other
6 obligations secured by:

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

8 (2) contract payments described by Section 8358.153.

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

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

17 Sec. 8358.152. OPERATION AND MAINTENANCE TAX. (a) If
18 authorized at an election held under Section 8358.151, the district
19 may impose an operation and maintenance tax on taxable property in
20 the district in accordance with Section 49.107, Water Code.

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

23 Sec. 8358.153. CONTRACT TAXES. (a) In accordance with
24 Section 49.108, Water Code, the district may impose a tax other than
25 an operation and maintenance tax and use the revenue derived from
26 the tax to make payments under a contract after the provisions of
27 the contract have been approved by a majority of the district voters

1 voting at an election held for that purpose.

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

5 Sec. 8358.154. ALLOCATION OF TAXES. Section 54.016(f),
6 Water Code, does not apply to the district.

7 [Sections 8358.155-8358.200 reserved for expansion]

8 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

9 Sec. 8358.201. AUTHORITY TO ISSUE BONDS AND OTHER
10 OBLIGATIONS. The district may issue bonds or other obligations
11 payable wholly or partly from ad valorem taxes, impact fees,
12 revenue, contract payments, grants, or other district money, or any
13 combination of those sources, to pay for any authorized district
14 purpose.

15 Sec. 8358.202. TAXES FOR BONDS. At the time the district
16 issues bonds payable wholly or partly from ad valorem taxes, the
17 board shall provide for the annual imposition of a continuing
18 direct ad valorem tax, without limit as to rate or amount, while all
19 or part of the bonds are outstanding as required and in the manner
20 provided by Sections 54.601 and 54.602, Water Code.

21 Sec. 8358.203. BONDS FOR ROAD PROJECTS. At the time of
22 issuance, the total principal amount of bonds or other obligations
23 issued or incurred to finance road projects and payable from ad
24 valorem taxes may not exceed one-fourth of the assessed value of the
25 real property in the district.

26 SECTION 2. The Guadalupe County Municipal Utility District
27 No. 3 initially includes all the territory contained in the

1 following area:

2 A FIELD NOTE DESCRIPTION of 539.0054 acres (23,479,075 square
3 feet) of land in the J.D. Clements Survey, Abstract No. 11,
4 Guadalupe County, Texas; said 539.0054 acre tract being all of Lots
5 1-3, Block 1 of the Project Green Subdivision, according to the map
6 or plat recorded in Volume 7, Pages 263-264 of the Guadalupe County
7 Map Records and all of an 87.9012 acre tract, conveyed to A-L 97 IH
8 10-SH 46, L.P., as recorded in Guadalupe County Clerk's File Nos.
9 07-22168, 07-022173 & 08-013115; said tract being more particularly
10 described by metes and bounds as follows with the bearings being
11 based on the Texas State Plane Coordinate System, South Central
12 Zone using National Geodetic Survey Continuously Operating
13 Reference Stations:

14 BEGINNING at a smooth 5/8-inch iron rod found in the
15 northwest right-of-way line of Interstate Highway 10 (right-of-way
16 varies) for the southwest corner of said Lot 3 and for an angle
17 point of this tract;

18 THENCE; South 68° 42' 28" West - 710.50 feet with the
19 northwest right-of-way line of said Interstate Highway 10 to a 60d
20 nail in concrete found for an angle point of this tract;

21 THENCE; South 58° 05' 50" West- 215.79 feet with the northwest
22 right-of-way line of said Interstate Highway 10 to a 1/2-inch iron
23 rod with cap stamped 'B&A' found for the most southerly southwest
24 corner of this tract;

25 THENCE; North 01° 31' 26" West - 4,139.17 feet with the east
26 line of a 40 acre tract conveyed to Robin R. Rector Harrel, as
27 recorded in Volume 1528, Page 234 of Guadalupe County Deed Records

1 to a 1/2-inch iron rod found for an interior corner of this tract;

2 THENCE; South 89° 03' 44" West - 536.71 feet with a north line
3 of said 40 acre tract to a 1/2-inch iron pipe found for an angle
4 point of this tract;

5 THENCE; South 88° 21' 42" West - 60.21 feet with the north line
6 of a 27.44 acre tract of land conveyed to Nancy Beth Hallberg, as
7 recorded in Volume 1847, Page 835 of the Guadalupe County Deed
8 Records to a 4-inch metal pole found for a southwest corner of this
9 tract;

10 THENCE; North 01° 07' 53" West - 495.80 feet with the east line
11 of a 2.935 acre tract of land conveyed to Strata Ferrous, Inc., as
12 recorded in Volume 1504, Page 468 of the Guadalupe County Deed
13 Records to a metal fence post found in the southwest right-of-way
14 line of Friesenhahn Road (Youngs Ford Road, right-of-way varies)
15 for the most westerly northwest corner of this tract;

16 THENCE; South 76° 37' 07" East - 1,503.28 feet with the
17 southwest right-of-way line of said Friesenhahn Road to a 10-inch
18 x10-inch concrete fence post found for an angle point of this tract;

19 THENCE; South 75° 48' 22" East - 622.44 feet with the
20 southwest right-of-way line of said Friesenhahn Road to a 10-inch
21 x10-inch concrete fence post found for an angle point of this tract;

22 THENCE; South 76° 34' 50" East - 1,425.29 feet with the
23 southwest right-of-way line of said Friesenhahn Road to a 1/2-inch
24 iron rod with cap found for an interior corner of this tract; from
25 which a 1/2-inch iron rod found bears North 74° 17' 36" East - 0.33
26 feet;

27 THENCE; North 20° 52' 10" East - 84.74 feet with the west line

1 of said Lot 2 to a 5/8-inch iron rod with cap set for an interior
2 corner of this tract;

3 THENCE; North 76° 54' 03" West - 682.88 feet with the
4 northeast right-of-way line of said Friesenhahn Road to a 1/2-inch
5 iron rod with cap found for an interior corner of this tract;

6 THENCE; South 12° 54' 49" West - 9.69 feet with a jog in the
7 northeast right-of-way line of said Friesenhahn Road to a 10-inch
8 x10-inch concrete fence post found for a south corner of this tract;

9 THENCE; North 76° 24' 13" West - 936.14 feet with the
10 northeast right-of-way line of said Friesenhahn Road to a 5/8-inch
11 iron rod with cap set for a west corner of this tract;

12 THENCE; North 14° 03' 37" East - 10.20 feet with a jog in the
13 northeast right-of-way line of said Friesenhahn Road to a 1/2-inch
14 iron rod found for an interior corner of this tract;

15 THENCE; North 75° 11' 12" West - 503.39 feet with the
16 northeast right-of-way line of said Friesenhahn Road to a 1/2-inch
17 iron rod found for a southwest corner of this tract;

18 THENCE; North 01° 08' 08" West - 848.44 feet with the west line
19 of said Lot 1 and with the east line of a 19.21 acre tract of land
20 conveyed to O.J. Riedel, Trustee, as recorded in Volume 724, Page
21 541 of the Guadalupe County Deed Records to a 1/2-inch iron rod
22 found for an angle point of this tract;

23 THENCE; North 01° 28' 34" West - 551.15 feet with the west line
24 of said Lot 1 and with the east line of Westgate Subdivision,
25 according tot he map or plat recorded in Volume 4, Page 96 of the
26 Guadalupe County Map Records to a 5/8-inch iron rod with cap set for
27 an angle point of this tract;

1 THENCE; North 01° 22' 32" West - 1,262.61 feet with the west
2 line of said Lot 1 and with the east line of said Westgate
3 Subdivision to a concrete monument disk found in the southwest
4 right-of-way line of F.M. Highway 78 (right-of-way varies) for a
5 northwest corner of this tract;

6 THENCE; South 76° 33' 09" East - 1,256.79 feet with the
7 southwest right-of-way line of said F.M. Highway 78 to a 5/8-inch
8 iron rod with cap set for a northeast corner of this tract; from
9 which a metal fence post bears South 00° 50' 29" East - 0.91 feet;

10 THENCE; South 00° 50' 29" East - 741.45 feet with an east line
11 of said Lot 1 and with the west line of an 11.684 acre tract of land
12 conveyed to Fernon J. Schievelbein, as recorded in Volume 476, Page
13 679 of the Guadalupe County Deed Records to a 10-inch x 10-inch
14 concrete fence post found for an interior corner of this tract;

15 THENCE; South 76° 36' 44" East with the northeast line of said
16 Lot 1 and with the southwest line of said 11.684 acre tract, with
17 the southwest line of a tract of land conveyed to Fernon J.
18 Schievelbein, as recorded in Volume 1000, Page 572 of the Guadalupe
19 County Deed Records, and with the southwest line of a 13.730 acre
20 tract of land conveyed to Fernon J. Schievelbein, as recorded in
21 Volume 476, Page 679 of the Guadalupe County Deed Records at a
22 distance of 1,604.24 feet pass a 1/2-inch iron rod in concrete found
23 and continuing for a total distance of 1,893.61 feet with the
24 northeast line of said Lot 2 to a 10-inch x10-inch concrete fence
25 post found for an interior corner of this tract;

26 THENCE: North 01° 09' 52" West - 747.68 feet with a west line
27 of said Lot 2 and with the east line of said 13.730 acre tract to a

1 concrete monument found in the southwest right-of-way line of said
2 F.M. Highway 78 for a northwest corner of this tract;

3 THENCE; South 78° 44' 39" East - 972.43 feet with the
4 southwest right-of-way line of said F.M. Highway 78 to a concrete
5 monument found for an angle point of this tract;

6 THENCE; South 76° 37' 15" East - 737.62 feet with the
7 southwest right-of-way line of said F.M. Highway 78 to a 2-inch iron
8 pipe found for the most easterly northeast corner of this tract;

9 THENCE; South 01° 17' 10" East - 1,097.52 feet with a east line
10 of said Lot 2 and with the west line of a tract of land conveyed to
11 Superior Energy Group, Ltd., as recorded in Volume 732, Page 1301 of
12 the Guadalupe County Deed Records to a 1/2-inch iron rod found for a
13 southeast corner of this tract;

14 THENCE; South 87° 34' 00" West - 711.09 feet with a south line
15 of said Lot 2 to a 1/2-inch iron rod with cap in concrete found for
16 an interior corner of this tract; from which a bent 1-inch iron pipe
17 bears South 87° 34' 10" West - 2.83 feet;

18 THENCE; South 01° 22' 58" East - 1,116.97 feet with the east
19 line of said Lot 2 to a 6 foot chain link fence corner found for an
20 angle point of this tract;

21 THENCE; South 00° 15' 22" East - 290.39 feet with the east line
22 of said Lot 2 to a 1/2-inch iron rod with cap stamped 'Kling' found
23 for a southeast corner of this tract;

24 THENCE; North 76° 54' 03" West - 62.59 feet with the northeast
25 right-of-way line of said Friesenhahn Road to a 5/8-inch iron rod
26 with cap set for an interior corner of this tract;

27 THENCE; South 01° 04' 17" East - 718.65 feet with the east line

1 of said Lot 2 to a brass disk found in the northwest right-of-way
2 line of said Interstate Highway 10 for the most southerly southeast
3 corner of this tract; from which a 1/2-inch iron rod with cap 'B&A'
4 bears South 55° 35' 30" West - 0.53 feet;

5 THENCE; South 51° 29' 46" West with the southeast line of said
6 Lot 2 and with the northwest right-of-way line of said Interstate
7 Highway 10, at a distance of 489.92 feet pass a 1/2-inch iron rod
8 with cap stamped 'B&A' found and continuing with the southeast line
9 of said Lot 3 for a total distance of 870.11 feet to a brass monument
10 disk found for an angle point of this tract;

11 THENCE; South 54° 44' 17" West - 652.94 feet with the
12 northwest right-of-way line of said Interstate Highway 10 to a
13 brass monument disk found for an angle point of this tract;

14 THENCE; South 58° 04' 52" West - 1,419.28 feet with the
15 northwest right-of-way line of said Interstate Highway 10 to a
16 3/4-inch square bar found for an angle point of this tract;

17 THENCE; South 61° 55' 18" West - 999.03 feet with the
18 northwest right-of-way line of said Interstate Highway 10 to a
19 1/2-inch iron rod with cap stamped 'Kling' found for an angle point
20 of this tract;

21 THENCE; South 69° 00' 37" West - 561.36 feet with the
22 northwest right-of-way line of said Interstate Highway 10 to the
23 POINT OF BEGINNING and containing 539.0054 acres (23,479,075 square
24 feet) of land.

25 SECTION 3. (a) The legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished
3 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4 Government Code.

5 (b) The governor, one of the required recipients, has
6 submitted the notice and Act to the Texas Commission on
7 Environmental Quality.

8 (c) The Texas Commission on Environmental Quality has filed
9 its recommendations relating to this Act with the governor, the
10 lieutenant governor, and the speaker of the house of
11 representatives within the required time.

12 (d) All requirements of the constitution and laws of this
13 state and the rules and procedures of the legislature with respect
14 to the notice, introduction, and passage of this Act are fulfilled
15 and accomplished.

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2009.