

1-1 By: Kuempel (Senate Sponsor - Wentworth) H.B. No. 4754
1-2 (In the Senate - Received from the House May 8, 2009;
1-3 May 8, 2009, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 22, 2009, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Guadalupe County Municipal Utility
1-9 District No. 3; providing authority to impose a tax and issue bonds;
1-10 granting a limited power of eminent domain.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle F, Title 6, Special District Local Laws
1-13 Code, is amended by adding Chapter 8358 to read as follows:

1-14 CHAPTER 8358. GUADALUPE COUNTY MUNICIPAL UTILITY DISTRICT NO. 3

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 8358.001. DEFINITIONS. In this chapter:

1-17 (1) "Board" means the district's board of directors.

1-18 (2) "Director" means a board member.

1-19 (3) "District" means the Guadalupe County Municipal
1-20 Utility District No. 3.

1-21 Sec. 8358.002. NATURE OF DISTRICT. The district is a
1-22 municipal utility district created under Section 59, Article XVI,
1-23 Texas Constitution.

1-24 Sec. 8358.003. CONFIRMATION AND DIRECTORS' ELECTION
1-25 REQUIRED. The temporary directors shall hold an election to
1-26 confirm the creation of the district and to elect five permanent
1-27 directors as provided by Section 49.102, Water Code.

1-28 Sec. 8358.004. CONSENT OF MUNICIPALITY REQUIRED. The
1-29 temporary directors may not hold an election under Section 8358.003
1-30 until each municipality in whose corporate limits or
1-31 extraterritorial jurisdiction the district is located has:

1-32 (1) consented by ordinance or resolution to the
1-33 creation of the district and to the inclusion of land in the
1-34 district subsequent to the effective date of the Act creating this
1-35 chapter; and

1-36 (2) approved and entered into a development agreement
1-37 with the owners of land within the district under Section 212.172,
1-38 Local Government Code.

1-39 Sec. 8358.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
1-40 The district is created to serve a public purpose and benefit.

1-41 (b) The district is created to accomplish the purposes of:

1-42 (1) a municipal utility district as provided by
1-43 general law and Section 59, Article XVI, Texas Constitution; and

1-44 (2) Section 52, Article III, Texas Constitution, that
1-45 relate to the construction, acquisition, improvement, operation,
1-46 or maintenance of macadamized, graveled, or paved roads, or
1-47 improvements, including storm drainage, in aid of those roads.

1-48 Sec. 8358.006. INITIAL DISTRICT TERRITORY. (a) The
1-49 district is initially composed of the territory described by
1-50 Section 2 of the Act creating this chapter.

1-51 (b) The boundaries and field notes contained in Section 2 of
1-52 the Act creating this chapter form a closure. A mistake made in the
1-53 field notes or in copying the field notes in the legislative process
1-54 does not affect the district's:

1-55 (1) organization, existence, or validity;

1-56 (2) right to issue any type of bond for the purposes
1-57 for which the district is created or to pay the principal of and
1-58 interest on a bond;

1-59 (3) right to impose a tax; or

1-60 (4) legality or operation.

1-61 [Sections 8358.007-8358.050 reserved for expansion]

1-62 SUBCHAPTER B. BOARD OF DIRECTORS

1-63 Sec. 8358.051. GOVERNING BODY; TERMS. (a) The district is
1-64 governed by a board of five elected directors.

2-1 (b) Except as provided by Section 8358.052, directors serve
 2-2 staggered four-year terms.

2-3 Sec. 8358.052. TEMPORARY DIRECTORS. (a) On or after the
 2-4 effective date of the Act creating this chapter, the owner or owners
 2-5 of a majority of the assessed value of the real property in the
 2-6 district may submit a petition to the Texas Commission on
 2-7 Environmental Quality requesting that the commission appoint as
 2-8 temporary directors the five persons named in the petition. The
 2-9 commission shall appoint as temporary directors the five persons
 2-10 named in the petition.

2-11 (b) Temporary directors serve until the earlier of:
 2-12 (1) the date permanent directors are elected under
 2-13 Section 8358.003; or
 2-14 (2) the fourth anniversary of the effective date of
 2-15 the Act creating this chapter.

2-16 (c) If permanent directors have not been elected under
 2-17 Section 8358.003 and the terms of the temporary directors have
 2-18 expired, successor temporary directors shall be appointed or
 2-19 reappointed as provided by Subsection (d) to serve terms that
 2-20 expire on the earlier of:

2-21 (1) the date permanent directors are elected under
 2-22 Section 8358.003; or
 2-23 (2) the fourth anniversary of the date of the
 2-24 appointment or reappointment.

2-25 (d) If Subsection (c) applies, the owner or owners of a
 2-26 majority of the assessed value of the real property in the district
 2-27 may submit a petition to the Texas Commission on Environmental
 2-28 Quality requesting that the commission appoint as successor
 2-29 temporary directors the five persons named in the petition. The
 2-30 commission shall appoint as successor temporary directors the five
 2-31 persons named in the petition.

2-32 [Sections 8358.053-8358.100 reserved for expansion]

2-33 SUBCHAPTER C. POWERS AND DUTIES

2-34 Sec. 8358.101. GENERAL POWERS AND DUTIES. The district has
 2-35 the powers and duties necessary to accomplish the purposes for
 2-36 which the district is created.

2-37 Sec. 8358.102. MUNICIPAL UTILITY DISTRICT POWERS AND
 2-38 DUTIES. The district has the powers and duties provided by the
 2-39 general law of this state, including Chapters 49 and 54, Water Code,
 2-40 applicable to municipal utility districts created under Section 59,
 2-41 Article XVI, Texas Constitution.

2-42 Sec. 8358.103. AUTHORITY FOR ROAD PROJECTS. Under Section
 2-43 52, Article III, Texas Constitution, the district may design,
 2-44 acquire, construct, finance, issue bonds for, improve, operate,
 2-45 maintain, and convey to this state, a county, or a municipality for
 2-46 operation and maintenance macadamized, graveled, or paved roads, or
 2-47 improvements, including storm drainage, in aid of those roads.

2-48 Sec. 8358.104. APPROVAL OF ROAD PROJECT. (a) The district
 2-49 may not undertake a road project authorized by Section 8358.103
 2-50 unless:

2-51 (1) each municipality or county that will operate and
 2-52 maintain the road has approved the plans and specifications of the
 2-53 road project; or

2-54 (2) the Texas Transportation Commission approves the
 2-55 plans and specifications of the road project, if the state will
 2-56 operate and maintain the road.

2-57 (b) Except as provided by Subsection (a), the district is
 2-58 not required to obtain approval from the Texas Transportation
 2-59 Commission to design, acquire, construct, finance, issue bonds for,
 2-60 improve, or convey a road project.

2-61 Sec. 8358.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
 2-62 OR RESOLUTION. (a) The district shall comply with all applicable
 2-63 requirements of any ordinance or resolution that is adopted under
 2-64 Section 54.016 or 54.0165, Water Code, and that consents to the
 2-65 creation of the district or to the inclusion of land in the
 2-66 district.

2-67 (b) For purposes of Section 54.016, Water Code, the district
 2-68 is a city service district for the limited purpose of establishing
 2-69 consent conditions.

3-1 Sec. 8358.106. LIMITATION ON USE OF EMINENT DOMAIN. The
3-2 district may not exercise the power of eminent domain outside the
3-3 district to acquire a site or easement for:

3-4 (1) a road project authorized by Section 8358.103; or
3-5 (2) a recreational facility as defined by Section
3-6 49.462, Water Code.

3-7 [Sections 8358.107-8358.150 reserved for expansion]

3-8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-9 Sec. 8358.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
3-10 district may issue, without an election, bonds and other
3-11 obligations secured by:

3-12 (1) revenue other than ad valorem taxes; or

3-13 (2) contract payments described by Section 8358.153.

3-14 (b) The district must hold an election in the manner
3-15 provided by Chapters 49 and 54, Water Code, to obtain voter approval
3-16 before the district may impose an ad valorem tax or issue bonds
3-17 payable from ad valorem taxes.

3-18 (c) The district may not issue bonds payable from ad valorem
3-19 taxes to finance a road project unless the issuance is approved by a
3-20 vote of a two-thirds majority of the district voters voting at an
3-21 election held for that purpose.

3-22 Sec. 8358.152. OPERATION AND MAINTENANCE TAX. (a) If
3-23 authorized at an election held under Section 8358.151, the district
3-24 may impose an operation and maintenance tax on taxable property in
3-25 the district in accordance with Section 49.107, Water Code.

3-26 (b) The board shall determine the tax rate. The rate may not
3-27 exceed the rate approved at the election.

3-28 Sec. 8358.153. CONTRACT TAXES. (a) In accordance with
3-29 Section 49.108, Water Code, the district may impose a tax other than
3-30 an operation and maintenance tax and use the revenue derived from
3-31 the tax to make payments under a contract after the provisions of
3-32 the contract have been approved by a majority of the district voters
3-33 voting at an election held for that purpose.

3-34 (b) A contract approved by the district voters may contain a
3-35 provision stating that the contract may be modified or amended by
3-36 the board without further voter approval.

3-37 Sec. 8358.154. ALLOCATION OF TAXES. Section 54.016(f),
3-38 Water Code, does not apply to the district.

3-39 [Sections 8358.155-8358.200 reserved for expansion]

3-40 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-41 Sec. 8358.201. AUTHORITY TO ISSUE BONDS AND OTHER
3-42 OBLIGATIONS. The district may issue bonds or other obligations
3-43 payable wholly or partly from ad valorem taxes, impact fees,
3-44 revenue, contract payments, grants, or other district money, or any
3-45 combination of those sources, to pay for any authorized district
3-46 purpose.

3-47 Sec. 8358.202. TAXES FOR BONDS. At the time the district
3-48 issues bonds payable wholly or partly from ad valorem taxes, the
3-49 board shall provide for the annual imposition of a continuing
3-50 direct ad valorem tax, without limit as to rate or amount, while all
3-51 or part of the bonds are outstanding as required and in the manner
3-52 provided by Sections 54.601 and 54.602, Water Code.

3-53 Sec. 8358.203. BONDS FOR ROAD PROJECTS. At the time of
3-54 issuance, the total principal amount of bonds or other obligations
3-55 issued or incurred to finance road projects and payable from ad
3-56 valorem taxes may not exceed one-fourth of the assessed value of the
3-57 real property in the district.

3-58 SECTION 2. The Guadalupe County Municipal Utility District
3-59 No. 3 initially includes all the territory contained in the
3-60 following area:

3-61 A FIELD NOTE DESCRIPTION of 539.0054 acres (23,479,075 square
3-62 feet) of land in the J.D. Clements Survey, Abstract No. 11,
3-63 Guadalupe County, Texas; said 539.0054 acre tract being all of Lots
3-64 1-3, Block 1 of the Project Green Subdivision, according to the map
3-65 or plat recorded in Volume 7, Pages 263-264 of the Guadalupe County
3-66 Map Records and all of an 87.9012 acre tract, conveyed to A-L 97 IH
3-67 10-SH 46, L.P., as recorded in Guadalupe County Clerk's File Nos.
3-68 07-22168, 07-022173 & 08-013115; said tract being more particularly
3-69 described by metes and bounds as follows with the bearings being

4-1 based on the Texas State Plane Coordinate System, South Central
4-2 Zone using National Geodetic Survey Continuously Operating
4-3 Reference Stations:
4-4 BEGINNING at a smooth 5/8-inch iron rod found in the
4-5 northwest right-of-way line of Interstate Highway 10 (right-of-way
4-6 varies) for the southwest corner of said Lot 3 and for an angle
4-7 point of this tract;
4-8 THENCE; South 68° 42' 28" West - 710.50 feet with the
4-9 northwest right-of-way line of said Interstate Highway 10 to a 60d
4-10 nail in concrete found for an angle point of this tract;
4-11 THENCE; South 58° 05' 50" West - 215.79 feet with the northwest
4-12 right-of-way line of said Interstate Highway 10 to a 1/2-inch iron
4-13 rod with cap stamped 'B&A' found for the most southerly southwest
4-14 corner of this tract;
4-15 THENCE; North 01° 31' 26" West - 4,139.17 feet with the east
4-16 line of a 40 acre tract conveyed to Robin R. Rector Harrel, as
4-17 recorded in Volume 1528, Page 234 of Guadalupe County Deed Records
4-18 to a 1/2-inch iron rod found for an interior corner of this tract;
4-19 THENCE; South 89° 03' 44" West - 536.71 feet with a north line
4-20 of said 40 acre tract to a 1/2-inch iron pipe found for an angle
4-21 point of this tract;
4-22 THENCE; South 88° 21' 42" West - 60.21 feet with the north line
4-23 of a 27.44 acre tract of land conveyed to Nancy Beth Hallberg, as
4-24 recorded in Volume 1847, Page 835 of the Guadalupe County Deed
4-25 Records to a 4-inch metal pole found for a southwest corner of this
4-26 tract;
4-27 THENCE; North 01° 07' 53" West - 495.80 feet with the east line
4-28 of a 2.935 acre tract of land conveyed to Strata Ferrous, Inc., as
4-29 recorded in Volume 1504, Page 468 of the Guadalupe County Deed
4-30 Records to a metal fence post found in the southwest right-of-way
4-31 line of Friesenhahn Road (Youngs Ford Road, right-of-way varies)
4-32 for the most westerly northwest corner of this tract;
4-33 THENCE; South 76° 37' 07" East - 1,503.28 feet with the
4-34 southwest right-of-way line of said Friesenhahn Road to a 10-inch
4-35 x10-inch concrete fence post found for an angle point of this tract;
4-36 THENCE; South 75° 48' 22" East - 622.44 feet with the
4-37 southwest right-of-way line of said Friesenhahn Road to a 10-inch
4-38 x10-inch concrete fence post found for an angle point of this tract;
4-39 THENCE; South 76° 34' 50" East - 1,425.29 feet with the
4-40 southwest right-of-way line of said Friesenhahn Road to a 1/2-inch
4-41 iron rod with cap found for an interior corner of this tract; from
4-42 which a 1/2-inch iron rod found bears North 74° 17' 36" East - 0.33
4-43 feet;
4-44 THENCE; North 20° 52' 10" East - 84.74 feet with the west line
4-45 of said Lot 2 to a 5/8-inch iron rod with cap set for an interior
4-46 corner of this tract;
4-47 THENCE; North 76° 54' 03" West - 682.88 feet with the
4-48 northeast right-of-way line of said Friesenhahn Road to a 1/2-inch
4-49 iron rod with cap found for an interior corner of this tract;
4-50 THENCE; South 12° 54' 49" West - 9.69 feet with a jog in the
4-51 northeast right-of-way line of said Friesenhahn Road to a 10-inch
4-52 x10-inch concrete fence post found for a south corner of this tract;
4-53 THENCE; North 76° 24' 13" West - 936.14 feet with the
4-54 northeast right-of-way line of said Friesenhahn Road to a 5/8-inch
4-55 iron rod with cap set for a west corner of this tract;
4-56 THENCE; North 14° 03' 37" East - 10.20 feet with a jog in the
4-57 northeast right-of-way line of said Friesenhahn Road to a 1/2-inch
4-58 iron rod found for an interior corner of this tract;
4-59 THENCE; North 75° 11' 12" West - 503.39 feet with the
4-60 northeast right-of-way line of said Friesenhahn Road to a 1/2-inch
4-61 iron rod found for a southwest corner of this tract;
4-62 THENCE; North 01° 08' 08" West - 848.44 feet with the west line
4-63 of said Lot 1 and with the east line of a 19.21 acre tract of land
4-64 conveyed to O.J. Riedel, Trustee, as recorded in Volume 724, Page
4-65 541 of the Guadalupe County Deed Records to a 1/2-inch iron rod
4-66 found for an angle point of this tract;
4-67 THENCE; North 01° 28' 34" West - 551.15 feet with the west line
4-68 of said Lot 1 and with the east line of Westgate Subdivision,
4-69 according to the map or plat recorded in Volume 4, Page 96 of the

5-1 Guadalupe County Map Records to a 5/8-inch iron rod with cap set for
5-2 an angle point of this tract;
5-3 THENCE; North 01° 22' 32" West - 1,262.61 feet with the west
5-4 line of said Lot 1 and with the east line of said Westgate
5-5 Subdivision to a concrete monument disk found in the southwest
5-6 right-of-way line of F.M. Highway 78 (right-of-way varies) for a
5-7 northwest corner of this tract;
5-8 THENCE; South 76° 33' 09" East - 1,256.79 feet with the
5-9 southwest right-of-way line of said F.M. Highway 78 to a 5/8-inch
5-10 iron rod with cap set for a northeast corner of this tract; from
5-11 which a metal fence post bears South 00° 50' 29" East - 0.91 feet;
5-12 THENCE; South 00° 50' 29" East - 741.45 feet with an east line
5-13 of said Lot 1 and with the west line of an 11.684 acre tract of land
5-14 conveyed to Fernon J. Schievelbein, as recorded in Volume 476, Page
5-15 679 of the Guadalupe County Deed Records to a 10-inch x 10-inch
5-16 concrete fence post found for an interior corner of this tract;
5-17 THENCE; South 76° 36' 44" East with the northeast line of said
5-18 Lot 1 and with the southwest line of said 11.684 acre tract, with
5-19 the southwest line of a tract of land conveyed to Fernon J.
5-20 Schievelbein, as recorded in Volume 1000, Page 572 of the Guadalupe
5-21 County Deed Records, and with the southwest line of a 13.730 acre
5-22 tract of land conveyed to Fernon J. Schievelbein, as recorded in
5-23 Volume 476, Page 679 of the Guadalupe County Deed Records at a
5-24 distance of 1,604.24 feet pass a 1/2-inch iron rod in concrete found
5-25 and continuing for a total distance of 1,893.61 feet with the
5-26 northeast line of said Lot 2 to a 10-inch x 10-inch concrete fence
5-27 post found for an interior corner of this tract;
5-28 THENCE: North 01° 09' 52" West - 747.68 feet with a west line
5-29 of said Lot 2 and with the east line of said 13.730 acre tract to a
5-30 concrete monument found in the southwest right-of-way line of said
5-31 F.M. Highway 78 for a northwest corner of this tract;
5-32 THENCE; South 78° 44' 39" East - 972.43 feet with the
5-33 southwest right-of-way line of said F.M. Highway 78 to a concrete
5-34 monument found for an angle point of this tract;
5-35 THENCE; South 76° 37' 15" East - 737.62 feet with the
5-36 southwest right-of-way line of said F.M. Highway 78 to a 2-inch iron
5-37 pipe found for the most easterly northeast corner of this tract;
5-38 THENCE; South 01° 17' 10" East - 1,097.52 feet with a east line
5-39 of said Lot 2 and with the west line of a tract of land conveyed to
5-40 Superior Energy Group, Ltd., as recorded in Volume 732, Page 1301 of
5-41 the Guadalupe County Deed Records to a 1/2-inch iron rod found for a
5-42 southeast corner of this tract;
5-43 THENCE; South 87° 34' 00" West - 711.09 feet with a south line
5-44 of said Lot 2 to a 1/2-inch iron rod with cap in concrete found for
5-45 an interior corner of this tract; from which a bent 1-inch iron pipe
5-46 bears South 87° 34' 10" West - 2.83 feet;
5-47 THENCE; South 01° 22' 58" East - 1,116.97 feet with the east
5-48 line of said Lot 2 to a 6 foot chain link fence corner found for an
5-49 angle point of this tract;
5-50 THENCE; South 00° 15' 22" East - 290.39 feet with the east line
5-51 of said Lot 2 to a 1/2-inch iron rod with cap stamped 'Kling' found
5-52 for a southeast corner of this tract;
5-53 THENCE; North 76° 54' 03" West - 62.59 feet with the northeast
5-54 right-of-way line of said Friesenhahn Road to a 5/8-inch iron rod
5-55 with cap set for an interior corner of this tract;
5-56 THENCE; South 01° 04' 17" East - 718.65 feet with the east line
5-57 of said Lot 2 to a brass disk found in the northwest right-of-way
5-58 line of said Interstate Highway 10 for the most southerly southeast
5-59 corner of this tract; from which a 1/2-inch iron rod with cap 'B&A'
5-60 bears South 55° 35' 30" West - 0.53 feet;
5-61 THENCE; South 51° 29' 46" West with the southeast line of said
5-62 Lot 2 and with the northwest right-of-way line of said Interstate
5-63 Highway 10, at a distance of 489.92 feet pass a 1/2-inch iron rod
5-64 with cap stamped 'B&A' found and continuing with the southeast line
5-65 of said Lot 3 for a total distance of 870.11 feet to a brass monument
5-66 disk found for an angle point of this tract;
5-67 THENCE; South 54° 44' 17" West - 652.94 feet with the
5-68 northwest right-of-way line of said Interstate Highway 10 to a
5-69 brass monument disk found for an angle point of this tract;

