

By: Chisum

H.B. No. 4764

Substitute the following for H.B. No. 4764:

By: Frost

C.S.H.B. No. 4764

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Gray County Municipal Utility
3 District No. 1; providing authority to impose a tax and issue bonds;
4 granting a limited power of eminent domain.

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

6 SECTION 1. Subtitle F, Title 6, Special District Local Laws
7 Code, is amended by adding Chapter 8319 to read as follows:

8 CHAPTER 8319. GRAY COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 8319.001. DEFINITIONS. In this chapter:

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

12 (2) "Director" means a board member.

13 (3) "District" means the Gray County Municipal Utility
14 District No. 1.

15 Sec. 8319.002. NATURE OF DISTRICT. The district is a
16 municipal utility district created under Section 59, Article XVI,
17 Texas Constitution.

18 Sec. 8319.003. CONFIRMATION AND DIRECTORS' ELECTION
19 REQUIRED. The temporary directors shall hold an election to
20 confirm the creation of the district and to elect five permanent
21 directors as provided by Section 49.102, Water Code.

22 Sec. 8319.004. CONSENT OF MUNICIPALITY REQUIRED. The
23 temporary directors may not hold an election under Section 8319.003
24 until each municipality in whose corporate limits or

1 extraterritorial jurisdiction the district is located has
2 consented by ordinance or resolution to the creation of the
3 district and to the inclusion of land in the district.

4 Sec. 8319.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
5 The district is created to serve a public purpose and benefit.

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

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

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

13 Sec. 8319.006. INITIAL DISTRICT TERRITORY. (a) The
14 district is initially composed of the territory described by
15 Section 2 of the Act creating this chapter.

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

20 (1) organization, existence, or validity;

21 (2) right to issue any type of bond for the purposes
22 for which the district is created or to pay the principal of and
23 interest on a bond;

24 (3) right to impose a tax; or

25 (4) legality or operation.

26 [Sections 8319.007-8319.050 reserved for expansion]

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 8319.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five elected directors.

4 (b) Except as provided by Section 8319.052, directors serve
5 staggered four-year terms.

6 Sec. 8319.052. TEMPORARY DIRECTORS. (a) On or after the
7 effective date of the Act creating this chapter, the owner or owners
8 of a majority of the assessed value of the real property in the
9 district may submit a petition to the Texas Commission on
10 Environmental Quality requesting that the commission appoint as
11 temporary directors the five persons named in the petition. The
12 commission shall appoint as temporary directors the five persons
13 named in the petition.

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

15 (1) the date permanent directors are elected under
16 Section 8319.003; or

17 (2) the fourth anniversary of the effective date of
18 the Act creating this chapter.

19 (c) If permanent directors have not been elected under
20 Section 8319.003 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 8319.003; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

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

8 [Sections 8319.053-8319.100 reserved for expansion]

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 8319.101. GENERAL POWERS AND DUTIES. The district has
11 the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. 8319.102. MUNICIPAL UTILITY DISTRICT POWERS AND
14 DUTIES. The district has the powers and duties provided by the
15 general law of this state, including Chapters 49 and 54, Water Code,
16 applicable to municipal utility districts created under Section 59,
17 Article XVI, Texas Constitution.

18 Sec. 8319.103. AUTHORITY FOR ROAD PROJECTS. Under Section
19 52, Article III, Texas Constitution, the district may design,
20 acquire, construct, finance, issue bonds for, improve, operate,
21 maintain, and convey to this state, a county, or a municipality for
22 operation and maintenance macadamized, graveled, or paved roads, or
23 improvements, including storm drainage, in aid of those roads.

24 Sec. 8319.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
25 project must meet all applicable construction standards, zoning and
26 subdivision requirements, and regulations of each municipality in
27 whose corporate limits or extraterritorial jurisdiction the road

1 project is located.

2 (b) If a road project is not located in the corporate limits
3 or extraterritorial jurisdiction of a municipality, the road
4 project must meet all applicable construction standards,
5 subdivision requirements, and regulations of each county in which
6 the road project is located.

7 (c) If the state will maintain and operate the road, the
8 Texas Transportation Commission must approve the plans and
9 specifications of the road project.

10 Sec. 8319.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
11 OR RESOLUTION. The district shall comply with all applicable
12 requirements of any ordinance or resolution that is adopted under
13 Section 54.016 or 54.0165, Water Code, and that consents to the
14 creation of the district or to the inclusion of land in the
15 district.

16 Sec. 8319.106. DIVISION OF DISTRICT. (a) The district may
17 be divided into two or more new districts only if the district:

18 (1) has no outstanding bonded debt; and

19 (2) is not imposing ad valorem taxes.

20 (b) This chapter applies to any new district created by the
21 division of the district, and a new district has all the powers and
22 duties of the district.

23 (c) Any new district created by the division of the district
24 may not, at the time the new district is created, contain any land
25 outside the area described by Section 2 of the Act creating this
26 chapter.

27 (d) The board, on its own motion or on receipt of a petition

1 signed by the owner or owners of a majority of the assessed value of
2 the real property in the district, may adopt an order dividing the
3 district.

4 (e) The board may adopt an order dividing the district
5 before or after the date the board holds an election under Section
6 8319.003 to confirm the district's creation.

7 (f) An order dividing the district shall:

8 (1) name each new district;

9 (2) include the metes and bounds description of the
10 territory of each new district;

11 (3) appoint temporary directors for each new district
12 or provide that the owner or owners of a majority of the assessed
13 value of the real property in each new district may submit a
14 petition to the Texas Commission on Environmental Quality
15 requesting that the commission appoint as temporary directors the
16 five persons named in the petition; and

17 (4) provide for the division of assets and liabilities
18 between or among the new districts.

19 (g) On or before the 30th day after the date of adoption of
20 an order dividing the district, the district shall file the order
21 with the Texas Commission on Environmental Quality and record the
22 order in the real property records of each county in which the
23 district is located.

24 (h) Any new district created by the division of the district
25 shall hold a confirmation and directors' election as required by
26 Section 8319.003. A new district that is not confirmed is subject
27 to dissolution under general law.

1 (i) Municipal consent to the creation of the district and to
2 the inclusion of land in the district granted under Section
3 8319.004 acts as municipal consent to the creation of any new
4 district created by the division of the district and to the
5 inclusion of land in the new district.

6 (j) Any new district created by the division of the district
7 must hold an election as required by this chapter to obtain voter
8 approval before the district may impose a maintenance tax or issue
9 bonds payable wholly or partly from ad valorem taxes.

10 Sec. 8319.107. LIMITATION ON USE OF EMINENT DOMAIN. (a) The
11 district may not exercise the power of eminent domain outside the
12 district to acquire a site or easement for:

- 13 (1) a road project authorized by Section 8319.103; or
14 (2) a recreational facility as defined by Section
15 49.462, Water Code.

16 (b) The district may not exercise the power of eminent
17 domain to acquire land, an easement, or other property that is
18 located more than five miles outside the district's boundaries.

19 [Sections 8319.108-8319.150 reserved for expansion]

20 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

21 Sec. 8319.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
22 district may issue, without an election, bonds and other
23 obligations secured by:

- 24 (1) revenue other than ad valorem taxes; or
25 (2) contract payments described by Section 8319.153.

26 (b) The district must hold an election in the manner
27 provided by Chapters 49 and 54, Water Code, to obtain voter approval

1 before the district may impose an ad valorem tax or issue bonds
2 payable from ad valorem taxes.

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

7 Sec. 8319.152. OPERATION AND MAINTENANCE TAX. (a) If
8 authorized at an election held under Section 8319.151, the district
9 may impose an operation and maintenance tax on taxable property in
10 the district in accordance with Section 49.107, Water Code.

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

13 Sec. 8319.153. CONTRACT TAXES. (a) In accordance with
14 Section 49.108, Water Code, the district may impose a tax other than
15 an operation and maintenance tax and use the revenue derived from
16 the tax to make payments under a contract after the provisions of
17 the contract have been approved by a majority of the district voters
18 voting at an election held for that purpose.

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

22 [Sections 8319.154-8319.200 reserved for expansion]

23 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

24 Sec. 8319.201. AUTHORITY TO ISSUE BONDS AND OTHER
25 OBLIGATIONS. The district may issue bonds or other obligations
26 payable wholly or partly from ad valorem taxes, impact fees,
27 revenue, contract payments, grants, or other district money, or any

1 combination of those sources, to pay for any authorized district
2 purpose.

3 Sec. 8319.202. TAXES FOR BONDS. At the time the district
4 issues bonds payable wholly or partly from ad valorem taxes, the
5 board shall provide for the annual imposition of a continuing
6 direct ad valorem tax, without limit as to rate or amount, while all
7 or part of the bonds are outstanding as required and in the manner
8 provided by Sections 54.601 and 54.602, Water Code.

9 Sec. 8319.203. BONDS FOR ROAD PROJECTS. At the time of
10 issuance, the total principal amount of bonds or other obligations
11 issued or incurred to finance road projects and payable from ad
12 valorem taxes may not exceed one-fourth of the assessed value of the
13 real property in the district.

14 SECTION 2. The Gray County Municipal Utility District No. 1
15 initially includes all the territory contained in the following
16 area:

17 Tract NO. 1

18 All that certain tract or parcel of land in Sections 117, 118 & 99,
19 Block 3, I.& G.N. Survey, Gray County, Texas, being more
20 particularly described as follows;

21 BEGINNING at a 1" Iron Pipe found for the Southwest corner of said
22 Section 99 and Northeast corner of said Section 117;

23 THENCE S 00°02'26"E, along the East line of said Section 117 a
24 distance of 2644.35 feet to a corner of this tract or parcel and
25 being a corner of said Wal-Mart Addition;

26 THENCE S 89°19'48"W, along the South line of the Northeast quarter
27 of said Section 117 a distance of 2641.67 feet to the Southwest

1 corner of this tract or parcel;
2 THENCE N 00°03'03"W, along the West line of said Northeast quarter a
3 distance of 2635.44 feet to the Northwest corner of said Northeast
4 quarter and being a corner of this tract or parcel;
5 THENCE N 00°03'40"W, along the west line of the Southeast quarter of
6 said Section 118 a distance of 2663.23 feet to the Northwest corner
7 of said Southeast quarter and being a corner of this tract or
8 parcel;
9 THENCE S 89°17'07"W, along the South line of the Northwest quarter
10 of said Section 118 a distance of 2642.14 feet to the Southwest
11 corner of said Northwest quarter and being a corner of this tract or
12 parcel;
13 THENCE N 00°03'39"W, along the West line of said Section 118 and
14 being the center line of a State of Texas Right of way Easement
15 recorded in Volume 222, Page 456, Deed Records, Gray County, Texas,
16 a distance of 2670.07 feet to the Northwest corner of this tract or
17 parcel and being the Northwest corner of said Section 118;
18 THENCE N 89°26'01"E, along the North line of said Section 118 a
19 distance of 5284.13 feet to a 1 1/2" Iron Pipe found for a corner of
20 this tract or parcel and being the Northeast corner of said Section
21 118;
22 THENCE N 89°26'01"E, along the North line of said Section 99, at
23 2689.59 feet pass a Iron Rod with Cap found for the Southwest corner
24 of Walnut Creek Addition, at 4653.89 feet pass a Iron Rod found for
25 the Southeast corner of said Walnut Creek Addition and continuing a
26 total distance of 5200.16 feet to the Northeast corner of this tract
27 or parcel on the West Right of Way of State Highway 70;

1 THENCE S 00°09'09"E, along the West Right of Way of State Highway 70
2 recorded in Volume 126, Page 298, Deed Records, Gray County, Texas,
3 a distance of 1632.06 feet to a corner of this tract or parcel;
4 THENCE, along said West Right of Way, being a tangent curve to the
5 right having a Delta angle of 30°00'00", a Radius of 2804.79 feet,
6 and an Arc Length of 1468.58 feet to a corner of this tract or
7 parcel;
8 THENCE S 29°53'14"W, along said West Right of Way, a distance of
9 2624.82 feet to a corner of this tract or parcel;
10 THENCE S 89°08'13"W, along the South line of said Section 99, a
11 distance of 3518.98 feet to the POINT of BEGINNING and containing
12 1220.21 Acres, more or less.

13 Tract No. 2

14 All that certain tract or parcel of land in Section 99, Block 3, I.&
15 GEN.. Survey, Gray County, Texas, being more particularly described
16 as follows;

17 BEGINNING at a point on the East line of said Section 99 from whence
18 a 1 1/4" Iron Pipe found for the Southeast corner of said Section 99
19 bears S 00°09'09"E a distance of 1579.46 feet;

20 THENCE N 60°06'48"W, along the Northerly Right of way of Loop 171
21 recorded in Volume 337, Page 5, Deed Records, Gray County, Texas, a
22 distance of 492.62 feet to a highway monument found for a corner of
23 this tract or parcel;

24 THENCE N 15°34'30"W, along said Right of Way, a distance of 141.09
25 feet to a highway monument found for a corner of this tract or
26 parcel;

27 THENCE N 29°53'14"E, along the Easterly Right of Way of State

1 Highway 70 recorded in Volume 126, Page 298, Deed Records, Gray
2 County, Texas, a distance of 263.93 feet to a corner of this tract
3 or parcel;
4 THENCE, along said Right of Way, being a tangent curve to the left
5 having a Delta angle of $18^{\circ}22'28''$, a Radius of 2924.79 feet and an
6 Arc Length of 937.97 feet to the most Northerly corner of this tract
7 or parcel;
8 THENCE S $00^{\circ}09'09''$ E, along the East line of said Section 99, a
9 distance of 1484.10 feet to the POINT of BEGINNING and containing
10 7.47 Acres, more or less.

11 Tract No. 3

12 All that certain tract or parcel of land in Section 99, Block 3, I.&
13 G.N. Survey, Gray County, Texas, being more particularly described
14 as follows;
15 BEGINNING at a point on the South line of said Section 99 from
16 whence a 1 1/4" Iron Pipe found for the Southeast corner of said
17 Section 99 bears N $89^{\circ}08'13''$ E a distance of 930.49 feet;
18 THENCE S $89^{\circ}08'13''$ W, along the South line of said Section 99, a
19 distance of 679.78 feet to Southwest corner of this tract or parcel;
20 THENCE N $29^{\circ}53'14''$ E, along the East Right of Way of State Highway 70
21 recorded in Volume 126, Page 298, Deed Records, Gray County, Texas,
22 a distance of 1939.41 feet to a highway monument found for a corner
23 of this tract or parcel;
24 THENCE N $74^{\circ}33'57''$ E, along the Southerly Right of way of Loop 171
25 recorded in Volume 337, Page 5, Deed Records, Gray County, Texas, a
26 distance of 141.93 feet to a highway monument found for a corner of
27 this tract or parcel;

1 THENCE S 60°08'25"E, along said Right of Way, a distance of 580.14
2 feet to a corner of this tract or parcel;
3 THENCE S 00°09'09"E, along the East line of said Section 99, a
4 distance of 463.19 feet to a corner of this tract or parcel;
5 THENCE S 02°50'51"W a distance of 99.97 feet to a corner of this
6 tract or parcel;
7 THENCE S 08°50'51"W a distance of 100.00 feet to a corner of this
8 tract or parcel;
9 THENCE S 14°50'51"W a distance of 100.00 feet to a corner of this
10 tract or parcel;
11 THENCE S 20°50'51"W a distance of 100.00 feet to a corner of this
12 tract or parcel;
13 THENCE S 26°50'51"W a distance of 100.00 feet to a corner of this
14 tract or parcel;
15 THENCE S 32°50'51"W a distance of 100.00 feet to a corner of this
16 tract or parcel;
17 THENCE S 38°50'51"W a distance of 100.00 feet to a corner of this
18 tract or parcel;
19 THENCE S 44°50'51"W a distance of 100.00 feet to a corner of this
20 tract or parcel;
21 THENCE S 50°50'51"W a distance of 100.00 feet to a corner of this
22 tract or parcel;
23 THENCE S 56°50'51"W a distance of 100.00 feet to a corner of this
24 tract or parcel;
25 THENCE S 62°50'51"W a distance of 100.00 feet to a corner of this
26 tract or parcel;
27 THENCE S 68°50'51"W a distance of 100.00 feet to a corner of this

1 tract or parcel;
2 THENCE S 74°50'51"W a distance of 100.00 feet to a corner of this
3 tract or parcel;
4 THENCE S 80°50'51"W a distance of 100.00 feet to a corner of this
5 tract or parcel;
6 THENCE S 86°28'51"W a distance of 75.04 feet to the POINT of
7 BEGINNING and containing 37.40 Acres, more or less.

8 SAID TRACTS CONTAIN 1,265.08 ACRES OF LAND, MORE OR LESS.

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

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

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

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

27 SECTION 4. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2009.