

By: Chisum

H.B. No. 4764

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Gray County Municipal Utility District No. 1; 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 8319 to read as follows:

CHAPTER 8319. GRAY COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8319.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

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

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

Sec. 8319.003. 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. 8319.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8319.003 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. LIMITATION ON USE OF EMINENT DOMAIN. (a) The
17 district may not exercise the power of eminent domain outside the
18 district to acquire a site or easement for:

- 19 (1) a road project authorized by Section 8319.103; or
20 (2) a recreational facility as defined by Section
21 49.462, Water Code.

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

25 [Sections 8319.107-8319.150 reserved for expansion]

26 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

27 Sec. 8319.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The

1 district may issue, without an election, bonds and other
2 obligations secured by:

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

4 (2) contract payments described by Section 8319.153.

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

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

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

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

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

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

1 [Sections 8319.154-8319.200 reserved for expansion]

2 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3 Sec. 8319.201. AUTHORITY TO ISSUE BONDS AND OTHER
4 OBLIGATIONS. The district may issue bonds or other obligations
5 payable wholly or partly from ad valorem taxes, impact fees,
6 revenue, contract payments, grants, or other district money, or any
7 combination of those sources, to pay for any authorized district
8 purpose.

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

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

20 [Sections 8319.204-8319.250 reserved for expansion]

21 SUBCHAPTER F. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

22 Sec. 8319.251. DIVISION OF DISTRICT; REQUIREMENTS. (a) At
23 any time after the district has been confirmed and before the
24 district issues indebtedness secured by taxes or net revenue, the
25 district may be divided into two or more new districts.

26 (b) A new district created by division of the district must
27 be at least 100 acres.

1 (c) The board may consider a proposal to divide the district
2 on:

3 (1) a petition of a landowner in the district; or

4 (2) a motion by the board.

5 (d) If the board decides to divide the district, the board
6 shall:

7 (1) set the terms of the division, including names for
8 the new districts and a plan for the payment or performance of any
9 outstanding district obligations; and

10 (2) prepare a metes and bounds description for each
11 proposed district.

12 (e) Any new district created by the division of the district
13 may not, at the time the new district is created, contain any land
14 outside the area described by Section 2 of the Act creating this
15 chapter. After its creation, a new district may annex property in
16 accordance with this chapter.

17 Sec. 8319.252. ELECTION FOR DIVISION OF DISTRICT.

18 (a) After the board has complied with Section 8319.251(d), the
19 board shall hold an election in the district to determine whether
20 the district should be divided as proposed.

21 (b) The board shall give notice of the election in the same
22 manner required for other district elections prescribed by the
23 Water Code and Election Code.

24 (c) If a majority of the votes cast are in favor of the
25 division:

26 (1) the district is divided; and

27 (2) not later than the 30th day after the date of the

1 election, the district shall provide written notice of the division
2 to:

3 (A) the Texas Commission on Environmental
4 Quality;

5 (B) the attorney general;

6 (C) the commissioners court of each county in
7 which a new district is located; and

8 (D) any municipality having extraterritorial
9 jurisdiction over territory in each new district.

10 (d) If a majority of the votes cast are not in favor of the
11 division, the district may not be divided.

12 Sec. 8319.253. ELECTION OF DIRECTORS OF NEW DISTRICTS.

13 (a) Not later than the 90th day after the date of an election in
14 favor of the division of the district, the board shall:

15 (1) appoint itself as the board of one of the new
16 districts; and

17 (2) appoint five directors for each of the other new
18 districts.

19 (b) Directors appointed under Subsection (a)(1) serve the
20 staggered terms to which they were elected in the original
21 district. Directors appointed under Subsection (a)(2) serve until
22 the election for directors under Subsection (c).

23 (c) On the uniform election date in May of the first
24 even-numbered year after the year in which the directors are
25 appointed, the appointed board shall hold an election to elect five
26 directors in each district for which directors were appointed under
27 Subsection (a)(2). The elected directors shall draw lots to

1 determine which two shall serve until the next regularly scheduled
2 election of directors and which three shall serve until the second
3 regularly scheduled election of directors.

4 Sec. 8319.254. CONTINUING POWERS AND OBLIGATIONS OF NEW
5 DISTRICTS. (a) Each new district may incur and pay debts and has
6 all powers of the original district created by this chapter.

7 (b) If the district is divided as provided by this
8 subchapter, the current obligations and any bond authorizations of
9 the district are not impaired. Debts shall be paid by revenue or by
10 taxes or assessments imposed on real property in the district as if
11 the district had not been divided or by contributions from each new
12 district as stated in the terms set by the board under Section
13 8319.251(d).

14 (c) Any other district obligation is divided pro rata among
15 the new districts on an acreage basis or on other terms that are
16 satisfactory to the new districts.

17 Sec. 8319.255. CONTRACT AUTHORITY OF NEW DISTRICTS. The
18 new districts may contract with each other for:

- 19 (1) water and wastewater services; or
20 (2) any other matter the boards of the new districts
21 consider appropriate.

22 SECTION 2. The Gray County Municipal Utility District No. 1
23 initially includes all the territory contained in the following
24 area:

25 Tract NO. 1

26 All that certain tract or parcel of land in Sections 117, 118 & 99,
27 Block 3, I.& G.N. Survey, Gray County, Texas, being more

1 particularly described as follows;
2 BEGINNING at a 1" Iron Pipe found for the Southwest corner of said
3 Section 99 and Northeast corner of said Section 117;
4 THENCE S 00°02'26"E, along the East line of said Section 117 a
5 distance of 2644.35 feet to a corner of this tract or parcel and
6 being a corner of said Wal-Mart Addition;
7 THENCE S 89°19'48"W, along the South line of the Northeast quarter
8 of said Section 117 a distance of 2641.67 feet to the Southwest
9 corner of this tract or parcel;
10 THENCE N 00°03'03"W, along the West line of said Northeast quarter a
11 distance of 2635.44 feet to the Northwest corner of said Northeast
12 quarter and being a corner of this tract or parcel;
13 THENCE N 00°03'40"W, along the west line of the Southeast quarter of
14 said Section 118 a distance of 2663.23 feet to the Northwest corner
15 of said Southeast quarter and being a corner of this tract or
16 parcel;
17 THENCE S 89°17'07"W, along the South line of the Northwest quarter
18 of said Section 118 a distance of 2642.14 feet to the Southwest
19 corner of said Northwest quarter and being a corner of this tract or
20 parcel;
21 THENCE N 00°03'39"W, along the West line of said Section 118 and
22 being the center line of a State of Texas Right of way Easement
23 recorded in Volume 222, Page 456, Deed Records, Gray County, Texas,
24 a distance of 2670.07 feet to the Northwest corner of this tract or
25 parcel and being the Northwest corner of said Section 118;
26 THENCE N 89°26'01"E, along the North line of said Section 118 a
27 distance of 5284.13 feet to a 1 1/2" Iron Pipe found for a corner of

1 this tract or parcel and being the Northeast corner of said Section
2 118;

3 THENCE N 89°26'01"E, along the North line of said Section 99, at
4 2689.59 feet pass a Iron Rod with Cap found for the Southwest corner
5 of Walnut Creek Addition, at 4653.89 feet pass a Iron Rod found for
6 the Southeast corner of said Walnut Creek Addition and continuing a
7 total distance of 5200.16 feet to the Northeast corner of this tract
8 or parcel on the West Right of Way of State Highway 70;

9 THENCE S 00°09'09"E, along the West Right of Way of State Highway 70
10 recorded in Volume 126, Page 298, Deed Records, Gray County, Texas,
11 a distance of 1632.06 feet to a corner of this tract or parcel;

12 THENCE, along said West Right of Way, being a tangent curve to the
13 right having a Delta angle of 30°00'00", a Radius of 2804.79 feet,
14 and an Arc Length of 1468.58 feet to a corner of this tract or
15 parcel;

16 THENCE S 29°53'14"W, along said West Right of Way, a distance of
17 2624.82 feet to a corner of this tract or parcel;

18 THENCE S 89°08'13"W, along the South line of said Section 99, a
19 distance of 3518.98 feet to the POINT of BEGINNING and containing
20 1220.21 Acres, more or less.

21 Tract No. 2

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

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

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

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

8 THENCE N 29°53'14"E, along the Easterly Right of Way of State
9 Highway 70 recorded in Volume 126, Page 298, Deed Records, Gray
10 County, Texas, a distance of 263.93 feet to a corner of this tract
11 or parcel;

12 THENCE, along said Right of Way, being a tangent curve to the left
13 having a Delta angle of 18°22'28", a Radius of 2924.79 feet and an
14 Arc Length of 937.97 feet to the most Northerly corner of this tract
15 or parcel;

16 THENCE S 00°09'09"E, along the East line of said Section 99, a
17 distance of 1484.10 feet to the POINT of BEGINNING and containing
18 7.47 Acres, more or less.

19 Tract No. 3

20 All that certain tract or parcel of land in Section 99, Block 3, I.&
21 G.N. Survey, Gray County, Texas, being more particularly described
22 as follows;

23 BEGINNING at a point on the South line of said Section 99 from
24 whence a 1 1/4" Iron Pipe found for the Southeast corner of said
25 Section 99 bears N 89°08'13"E a distance of 930.49 feet;

26 THENCE S 89°08'13"W, along the South line of said Section 99, a
27 distance of 679.78 feet to Southwest corner of this tract or parcel;

1 THENCE N 29°53'14"E, along the East Right of Way of State Highway 70
2 recorded in Volume 126, Page 298, Deed Records, Gray County, Texas,
3 a distance of 1939.41 feet to a highway monument found for a corner
4 of this tract or parcel;

5 THENCE N 74°33'57"E, along the Southerly Right of way of Loop 171
6 recorded in Volume 337, Page 5, Deed Records, Gray County, Texas, a
7 distance of 141.93 feet to a highway monument found for a corner of
8 this tract or parcel;

9 THENCE S 60°08'25"E, along said Right of Way, a distance of 580.14
10 feet to a corner of this tract or parcel;

11 THENCE S 00°09'09"E, along the East line of said Section 99, a
12 distance of 463.19 feet to a corner of this tract or parcel;

13 THENCE S 02°50'51"W a distance of 99.97 feet to a corner of this
14 tract or parcel;

15 THENCE S 08°50'51"W a distance of 100.00 feet to a corner of this
16 tract or parcel;

17 THENCE S 14°50'51"W a distance of 100.00 feet to a corner of this
18 tract or parcel;

19 THENCE S 20°50'51"W a distance of 100.00 feet to a corner of this
20 tract or parcel;

21 THENCE S 26°50'51"W a distance of 100.00 feet to a corner of this
22 tract or parcel;

23 THENCE S 32°50'51"W a distance of 100.00 feet to a corner of this
24 tract or parcel;

25 THENCE S 38°50'51"W a distance of 100.00 feet to a corner of this
26 tract or parcel;

27 THENCE S 44°50'51"W a distance of 100.00 feet to a corner of this

1 tract or parcel;
2 THENCE S 50°50'51"W a distance of 100.00 feet to a corner of this
3 tract or parcel
4 THENCE S 56°50'51"W a distance of 100.00 feet to a corner of this
5 tract or parcel;
6 THENCE S 62°50'51"W a distance of 100.00 feet to a corner of this
7 tract or parcel;
8 THENCE S 68°50'51"W a distance of 100.00 feet to a corner of this
9 tract or parcel;
10 THENCE S 74°50'51"W a distance of 100.00 feet to a corner of this
11 tract or parcel;
12 THENCE S 80°50'51"W a distance of 100.00 feet to a corner of this
13 tract or parcel;
14 THENCE S 86°28'51"W a distance of 75.04 feet to the POINT of
15 BEGINNING and containing 37.40 Acres, more or less.

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

17 SECTION 3. (a) The legal notice of the intention to
18 introduce this Act, setting forth the general substance of this
19 Act, has been published as provided by law, and the notice and a
20 copy of this Act have been furnished to all persons, agencies,
21 officials, or entities to which they are required to be furnished
22 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
23 Government Code.

24 (b) The governor, one of the required recipients, has
25 submitted the notice and Act to the Texas Commission on
26 Environmental Quality.

27 (c) The Texas Commission on Environmental Quality has filed

1 its recommendations relating to this Act with the governor, the
2 lieutenant governor, and the speaker of the house of
3 representatives within the required time.

4 (d) All requirements of the constitution and laws of this
5 state and the rules and procedures of the legislature with respect
6 to the notice, introduction, and passage of this Act are fulfilled
7 and accomplished.

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