

1-1 By: Hegar S.B. No. 1877
1-2 (In the Senate - Filed March 15, 2011; March 24, 2011, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 29, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 29, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1877 By: Patrick

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of the Oatman Hill Municipal Utility
1-11 District; providing authority to impose a tax and issue bonds;
1-12 granting a limited power of eminent domain.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-14 SECTION 1. Subtitle F, Title 6, Special District Local Laws
1-15 Code, is amended by adding Chapter 8327 to read as follows:

1-16 CHAPTER 8327. OATMAN HILL MUNICIPAL UTILITY DISTRICT
1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 8327.001. DEFINITIONS. In this chapter:

1-19 (1) "Board" means the district's board of directors.

1-20 (2) "Commission" means the Texas Commission on
1-21 Environmental Quality.

1-22 (3) "Director" means a board member.

1-23 (4) "District" means the Oatman Hill Municipal Utility
1-24 District.

1-25 Sec. 8327.002. NATURE OF DISTRICT. The district is a
1-26 municipal utility district created under Section 59, Article XVI,
1-27 Texas Constitution.

1-28 Sec. 8327.003. CONFIRMATION AND DIRECTORS' ELECTION
1-29 REQUIRED. The temporary directors shall hold an election to
1-30 confirm the creation of the district and to elect five permanent
1-31 directors as provided by Section 49.102, Water Code.

1-32 Sec. 8327.004. CONSENT OF MUNICIPALITY REQUIRED. The
1-33 temporary directors may not hold an election under Section 8327.003
1-34 until each municipality in whose corporate limits or
1-35 extraterritorial jurisdiction the district is located has
1-36 consented by ordinance or resolution to the creation of the
1-37 district and to the inclusion of land in the district.

1-38 Sec. 8327.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-39 (a) The district is created to serve a public purpose and benefit.

1-40 (b) The district is created to accomplish the purposes of:

1-41 (1) a municipal utility district as provided by
1-42 general law and Section 59, Article XVI, Texas Constitution; and

1-43 (2) Section 52, Article III, Texas Constitution, that
1-44 relate to the construction, acquisition, or improvement of
1-45 macadamized, graveled, or paved roads described by Section 54.234,
1-46 Water Code, or improvements, including storm drainage, in aid of
1-47 those roads.

1-48 Sec. 8327.006. INITIAL DISTRICT TERRITORY. (a) The
1-49 district is initially composed of the territory described by
1-50 Section 2 of the Act enacting this chapter.

1-51 (b) The boundaries and field notes contained in Section 2 of
1-52 the Act enacting this chapter form a closure within each tract as
1-53 described. A mistake made in the field notes or in copying the
1-54 field notes in the legislative process does not affect the
1-55 district's:

1-56 (1) organization, existence, or validity;

1-57 (2) right to issue any type of bond for the purposes
1-58 for which the district is created or to pay the principal of and
1-59 interest on a bond;

1-60 (3) right to impose a tax; or

1-61 (4) legality or operation.

1-62 [Sections 8327.007-8327.050 reserved for expansion]

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SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8327.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8327.052, directors serve staggered four-year terms.

Sec. 8327.052. TEMPORARY DIRECTORS. (a) On or after September 1, 2011, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8327.003; or

(2) September 1, 2015.

(c) If permanent directors have not been elected under Section 8327.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8327.003; or

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

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8327.053-8327.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8327.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8327.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8327.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the commission as required by Section 54.234, Water Code.

Sec. 8327.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8327.103 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

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

Sec. 8327.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under

3-1 Section 54.016 or 54.0165, Water Code, and that consents to the
3-2 creation of the district or to the inclusion of land in the
3-3 district.

3-4 Sec. 8327.106. LIMITATION ON USE OF EMINENT DOMAIN. The
3-5 district may not exercise the power of eminent domain outside the
3-6 district to acquire a site or easement for:

- 3-7 (1) a road project authorized by Section 8327.103; or
- 3-8 (2) a recreational facility as defined by Section
- 3-9 49.462, Water Code.

3-10 [Sections 8327.107-8327.150 reserved for expansion]

3-11 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-12 Sec. 8327.151. ELECTIONS REGARDING TAXES OR BONDS.

3-13 (a) The district may issue, without an election, bonds and other
3-14 obligations secured by:

- 3-15 (1) revenue other than ad valorem taxes; or
- 3-16 (2) contract payments described by Section 8327.153.

3-17 (b) The district must hold an election in the manner
3-18 provided by Chapters 49 and 54, Water Code, to obtain voter approval
3-19 before the district may impose an ad valorem tax or issue bonds
3-20 payable from ad valorem taxes.

3-21 (c) The district may not issue bonds payable from ad valorem
3-22 taxes to finance a road project unless the issuance is approved by a
3-23 vote of a two-thirds majority of the district voters voting at an
3-24 election held for that purpose.

3-25 Sec. 8327.152. OPERATION AND MAINTENANCE TAX. (a) If
3-26 authorized at an election held under Section 8327.151, the district
3-27 may impose an operation and maintenance tax on taxable property in
3-28 the district in accordance with Section 49.107, Water Code.

3-29 (b) The board shall determine the tax rate. The rate may not
3-30 exceed the rate approved at the election.

3-31 Sec. 8327.153. CONTRACT TAXES. (a) In accordance with
3-32 Section 49.108, Water Code, the district may impose a tax other than
3-33 an operation and maintenance tax and use the revenue derived from
3-34 the tax to make payments under a contract after the provisions of
3-35 the contract have been approved by a majority of the district voters
3-36 voting at an election held for that purpose.

3-37 (b) A contract approved by the district voters may contain a
3-38 provision stating that the contract may be modified or amended by
3-39 the board without further voter approval.

3-40 [Sections 8327.154-8327.200 reserved for expansion]

3-41 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-42 Sec. 8327.201. AUTHORITY TO ISSUE BONDS AND OTHER
3-43 OBLIGATIONS. The district may issue bonds or other obligations
3-44 payable wholly or partly from ad valorem taxes, impact fees,
3-45 revenue, contract payments, grants, or other district money, or any
3-46 combination of those sources, to pay for any authorized district
3-47 purpose.

3-48 Sec. 8327.202. TAXES FOR BONDS. At the time the district
3-49 issues bonds payable wholly or partly from ad valorem taxes, the
3-50 board shall provide for the annual imposition of a continuing
3-51 direct ad valorem tax, without limit as to rate or amount, while all
3-52 or part of the bonds are outstanding as required and in the manner
3-53 provided by Sections 54.601 and 54.602, Water Code.

3-54 Sec. 8327.203. BONDS FOR ROAD PROJECTS. At the time of
3-55 issuance, the total principal amount of bonds or other obligations
3-56 issued or incurred to finance road projects and payable from ad
3-57 valorem taxes may not exceed one-fourth of the assessed value of the
3-58 real property in the district.

3-59 SECTION 2. The Oatman Hill Municipal Utility District
3-60 initially includes all the territory contained in the following
3-61 area:

3-62 TRACT 1: 630.72 acres out of the John B. Oatman Farm Subdivision,
3-63 recorded in Book 2, Page 234, Travis County Deed Records, and in
3-64 Volume 41, Page 641, Caldwell County Deed Records out of James S.
3-65 Montgomery League, described as follows:

3-66 BEGINNING at a stone monument two and one-half feet high marked
3-67 T.B.C. locating the common corner of Travis, Bastrop and Caldwell
3-68 Counties for the North corner of a 281.9 acre tract owned by
3-69 Granville H. Bock and the East corner of the tract herein described;

4-1 THENCE with the Granville Bock Northwest line South 44° 40' West
4-2 1311.5 varas to an iron stake and pile of rocks set for the West
4-3 corner of the Granville Bock 281.9 acre tract and the South corner
4-4 of this tract;
4-5 THENCE North 45° 15' West 2686.7 varas to an iron stake and rock
4-6 mound on the Southeast line of the public lane as fenced (1935);
4-7 THENCE with the lane fence North 43° 40' East 265 varas to a post and
4-8 rock mound;
4-9 THENCE with the line fence North 44° 25' East 968.7 varas to a post
4-10 and rock mound;
4-11 THENCE with the Southeast side of the public road as fenced North
4-12 45° 15' East 81.4 varas to an iron pin, post and rock mound set on
4-13 the North corner of the tract herein described and as enclosed by
4-14 fence (1935);
4-15 THENCE with the fence and Southwest side of the public road South
4-16 45° 05' East 215 varas to a post and rock mound;
4-17 THENCE with the fence and Southwest side of the public road South
4-18 45° 40' East 275.9 varas to a post and rock mound;
4-19 THENCE with the Southwest side of the road South 46° 10' East 600.09
4-20 varas to an iron stake;
4-21 THENCE with the Southwest side of the road South 40° 10' East 173.3
4-22 varas to an iron stake and rock mound;
4-23 THENCE with the Southwest side of the country road South 44° 50'
4-24 East 1431.5 varas to the place of BEGINNING, containing 626.27
4-25 acres of land.
4-26 TRACT II: 614 acres being more particularly described as follows:
4-27 65 acres out of Lot 6 of Andrew Hamilton's Subdivision of 998 acres,
4-28 recorded in Volume 204, Page 260, of the Travis County Deed Records,
4-29 out of League 5, A.M. Leavy League, described as follows:
4-30 BEGINNING at the South corner of 217 acres of land conveyed to W.E.
4-31 Jamar by Ida L. Mask by deed dated November 23, 1909, recorded in
4-32 Volume 238, Pages 287-289, Deed Records of Travis County, Texas;
4-33 THENCE with the division line between Lot No. 6 and Lot No. 3, North
4-34 45° East 1447 varas to a stake set on the Northeast boundary of said
4-35 Leavy League and the Eastern corner of Lot No. 6;
4-36 THENCE North 48° 50' West with the Northeast boundary line of said
4-37 league 254.1 varas to a stake set for the North corner of this
4-38 tract;
4-39 THENCE South 45° West 1430.0 varas to a stake set for the West
4-40 corner of this tract;
4-41 THENCE South 45° East 253.53 varas to the place of BEGINNING,
4-42 containing 65 acres.
4-43 Lot No. 3, of the Andrew Hamilton Subdivision of 998 acres out of
4-44 said A.M. Leavy League according to plat recorded in Volume 204,
4-45 Page 260 Travis County Deed Records, being League 5, described as
4-46 follows:
4-47 BEGINNING at a post set on the dividing line between Caldwell and
4-48 Travis Counties, Texas, for the West corner of Lot No. 2, and the
4-49 most South corner of this Lot;
4-50 THENCE North 45° East with the county line 1474 varas to the most
4-51 North corner of Lot 2 a large stone on the county line and common
4-52 corner of Lots 2 and 3;
4-53 THENCE North 48° West 522 varas to a post for corner the common
4-54 corner of Lots 3 and 6;
4-55 THENCE South 45° West 1446.7 varas to a post set for the most West
4-56 corner of this Survey and the common corner of Lots 3, 4, 5 and 6;
4-57 THENCE South 45° East 522 varas to the place of BEGINNING,
4-58 containing 135 acres.
4-59 A part of Lot 2 of Andrew Hamilton's Subdivision of 998 acres,
4-60 recorded in Volume 204, Page 260, of the Travis County Deed Records,
4-61 out of League 5 A.M. Leavy League, described as follows:
4-62 BEGINNING at a stake in the county line dividing the counties of
4-63 Travis and Caldwell and at the most North corner of a 100 acre tract
4-64 a part of said Lot 2 sold and conveyed by Andrew Hamilton and wife,
4-65 Barbara Hamilton to Otto E. Ehrlich.
4-66 THENCE with said county line same being the division line between
4-67 Lots 2 and 3 of said subdivision North 45° 00' East 788 varas to a
4-68 large stone in the Northeastern line of said Leavy League the common
4-69 corner of said Lots 2 and 3;

5-1 THENCE with said League line South 45° 50' East 810 varas to a stake
5-2 and corner of said Lot 2 in line of new road;
5-3 THENCE with said road South 45° West 799.78 varas to a stake in same
5-4 and most East corner of said Otto Ehrlich 100 acre tract;
5-5 THENCE with line of same North 45° West 809.91 varas to the place of
5-6 BEGINNING, containing 114 acres, more or less.
5-7 300 acres, out of League 5, A.M. Leavy being all of Blocks 15, 15A,
5-8 16, 16A, 17 and 17A of the resurvey and subdivision of the Bunton
5-9 Pasture of the A.M. Leavy League, according to plat recorded in
5-10 Volume 27, Page 644, Caldwell County Deed Records, described as
5-11 follows:
5-12 BEGINNING at the NE corner of the 122 acre tract sold by R.L. Brown
5-13 to Fritz Awalt, being Block 10 which is also the SE corner of Block
5-14 17 of the subdivision of the Bunton Pasture;
5-15 THENCE N 45° West 856 varas to the NE corner of Block 17A;
5-16 THENCE S 45° W 1978 varas to the NE corner of Block 14A;
5-17 THENCE S 45° E 856 varas to common line of corner of Blocks 12, 13,
5-18 14, and 15 of the Subdivision of the Bunton Pasture;
5-19 THENCE N 45° E 1978 varas to the place of BEGINNING, and being the
5-20 same land conveyed by R.L. Brown to A.M. Cardwell by deed dated
5-21 September 30, 1899, recorded in Volume 24, Page 314, Caldwell
5-22 County Deed Records.
5-23 TRACT III: Field Notes for a 99.542 acres tract of land being Lot
5-24 No. 7 of the Eggleston Goldbeck and Seeling Subdivision of the Jacob
5-25 Betts survey as recorded in Plat Book 1, Page 110 of the Plat
5-26 Records of Travis County, Texas; said tract being more particularly
5-27 described by metes and bounds as follows:
5-28 BEGINNING at a concrete monument found in the East right-of-way
5-29 line of Maha Road said concrete monument also being at the most
5-30 southerly corner of the herein described tract;
5-31 THENCE with the East right-of-way line of Maha Road N 40° 52' W a
5-32 distance of 387.92 feet to a concrete monument found at an angle
5-33 point;
5-34 THENCE continuing with the East right-of-way line of Maha Road N 45°
5-35 40' 12" W a distance of 1282.28 feet to a concrete monument found at
5-36 the most westerly corner of the herein described tract;
5-37 THENCE leaving the east right-of-way line of Maha Road N 45° 10' 42"
5-38 E a distance of 2593.54 feet to a concrete monument found at the
5-39 most northerly corner of the herein described tract;
5-40 THENCE S 44° 44' 00" E a distance of 1698.50 feet to a concrete
5-41 monument found at the most easterly corner of the herein described
5-42 tract;
5-43 THENCE S 46° 20' 11" W a distance of 1261.23 feet to a concrete
5-44 monument found at an angle point;
5-45 THENCE S 45° 20' 23" W a distance of 1337.70 feet to the POINT OF
5-46 BEGINNING containing in all about 99.542 acres.
5-47 TRACT IV: Field notes for two adjacent tracts of land, Tract No. 1
5-48 containing 20.508 acres and Tract No. 2 containing 20.487 acres for
5-49 a total of 40.995 acres of land lying within and being part of the
5-50 Edward Gritton one fourth league in Travis County, Texas, and being
5-51 a part of that certain one hundred (100) acre tract conveyed by W.E.
5-52 Jamar and wife Maude Jamar, to Otto Dube by warranty deed of record
5-53 in Vol. 254, Page 226 of the Travis County deed records; said tracts
5-54 being more particularly described by metes and bounds as follows:
5-55 TRACT IVa: BEGINNING at a steel pin found in the East right-of-way
5-56 line of Maha Road, said pin also being at the most westerly corner
5-57 of Tract No. 1 and the most southerly corner of Tract No. 2
5-58 described below:
5-59 THENCE leaving the right-of-way line of Maha Road and proceeding
5-60 along the line common to Tract No. 1 and Tract No. 2 N 45° 00' 25" E a
5-61 distance of 1724.03 feet to a steel pin found at the most northerly
5-62 corner of Tract No. 1 and the most easterly corner of Tract No. 2
5-63 described below:
5-64 THENCE S 44° 55' 47" E a distance of 518.11 feet to a steel pin set
5-65 for the most easterly corner of Tract No. 1;
5-66 THENCE S 45° 00' 24" W (S45° 00' W Record) a distance of 1724.41 feet
5-67 to a steel pin set in the East right-of-way line of Maha Road at the
5-68 most southerly corner of Tract No. 1;
5-69 THENCE with the East right-of-way line of Maha Road N 44° 53' 09" W a

6-1 distance of 518.13 feet to the POINT OF BEGINNING containing in all
6-2 about 20.508 acres.
6-3 TRACT IVb: BEGINNING at a steel pin found in the East right-of-way
6-4 line of Maha Road, said pin also being at the most southerly corner
6-5 of Tract No. 2 and the most westerly corner of the above described
6-6 Tract 1:
6-7 THENCE with the East right-of-way line of Maha Road N 44° 47' 42" W
6-8 a distance of 279.95 feet of a steel pin found at the most westerly
6-9 corner of Tract No. 2;
6-10 THENCE leaving the East right-of-way line of Maha Road N 44° 43' 46"
6-11 E a distance of 884.41 feet to a steel pin found at an interior
6-12 corner of Tract No. 2;
6-13 THENCE N 44° 52' 07" W a distance of 478.83 feet to a steel pin found
6-14 at the most northerly West corner of Tract No. 2;
6-15 THENCE N 44° 32' 50" E a distance of 838.37 feet to a steel pin found
6-16 at the most northerly corner of Tract No. 2;
6-17 THENCE S 44° 56' 22" E a distance of 769.79 feet to a steel pin found
6-18 at the most easterly corner of Tract No. 2 and the most northerly
6-19 corner of Tract No. 1 described above;
6-20 THENCE along the line common to Tract No. 1 and Tract No. 2 S 45° 00'
6-21 25" W a distance of 1724.03 feet to the POINT OF BEGINNING
6-22 containing in all about 20.487 acres.

6-23 SECTION 3. (a) The legal notice of the intention to
6-24 introduce this Act, setting forth the general substance of this
6-25 Act, has been published as provided by law, and the notice and a
6-26 copy of this Act have been furnished to all persons, agencies,
6-27 officials, or entities to which they are required to be furnished
6-28 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6-29 Government Code.

6-30 (b) The governor, one of the required recipients, has
6-31 submitted the notice and Act to the Texas Commission on
6-32 Environmental Quality.

6-33 (c) The Texas Commission on Environmental Quality has filed
6-34 its recommendations relating to this Act with the governor, the
6-35 lieutenant governor, and the speaker of the house of
6-36 representatives within the required time.

6-37 (d) All requirements of the constitution and laws of this
6-38 state and the rules and procedures of the legislature with respect
6-39 to the notice, introduction, and passage of this Act are fulfilled
6-40 and accomplished.

6-41 SECTION 4. (a) Section 8327.106, Special District Local
6-42 Laws Code, as added by Section 1 of this Act, takes effect only if
6-43 this Act receives a two-thirds vote of all the members elected to
6-44 each house.

6-45 (b) If this Act does not receive a two-thirds vote of all the
6-46 members elected to each house, Subchapter C, Chapter 8327, Special
6-47 District Local Laws Code, as added by Section 1 of this Act, is
6-48 amended by adding Section 8327.106 to read as follows:

6-49 Sec. 8327.106. NO EMINENT DOMAIN POWER. The district may
6-50 not exercise the power of eminent domain.

6-51 (c) This section is not intended to be an expression of a
6-52 legislative interpretation of the requirements of Section 17(c),
6-53 Article I, Texas Constitution.

6-54 SECTION 5. Except as provided by Section 4 of this Act, this
6-55 Act takes effect September 1, 2011.

6-56 * * * * *