

By: Isaac

H.B. No. 3940

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the LaSalle Municipal Utility District No. 5; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

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 8476 to read as follows:

CHAPTER 8476. LASALLE MUNICIPAL UTILITY DISTRICT NO. 5

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8476.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the LaSalle Municipal Utility District No. 5.

Sec. 8476.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8476.003. 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.

1 Sec. 8476.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 8476.003
3 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 8476.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
8 The district is created to serve a public purpose and benefit.

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

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

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

16 Sec. 8476.006. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

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

23 (1) organization, existence, or validity;

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

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 8476.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8476.052, directors serve
6 staggered four-year terms.

7 Sec. 8476.052. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

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

15 (1) the date permanent directors are elected under
16 Section 8476.003; or

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

19 (c) If permanent directors have not been elected under
20 Section 8476.003 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 8476.003; 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 commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 8476.101. GENERAL POWERS AND DUTIES. The district has
10 the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8476.102. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 8476.103. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, and Section 53.029(c), Water
19 Code, the district may design, acquire, construct, finance, issue
20 bonds for, improve, operate, maintain, and convey to this state, a
21 county, or a municipality for operation and maintenance
22 macadamized, graveled, or paved roads, or improvements, including
23 storm drainage, in aid of those roads.

24 Sec. 8476.104. 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. 8476.105. 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 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 8476.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
18 district may issue, without an election, bonds and other
19 obligations secured by:

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

21 (2) contract payments described by Section 8476.153.

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

26 (c) The district may not issue bonds payable from ad valorem
27 taxes to finance a road project unless the issuance is approved by a

1 vote of a two-thirds majority of the district voters voting at an
2 election held for that purpose.

3 Sec. 8476.152. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 8476.151, the district
5 may impose an operation and maintenance tax on taxable property in
6 the district in accordance with Section 49.107, Water Code.

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

9 Sec. 8476.153. CONTRACT TAXES. (a) In accordance with
10 Section 49.108, Water Code, the district may impose a tax other than
11 an operation and maintenance tax and use the revenue derived from
12 the tax to make payments under a contract after the provisions of
13 the contract have been approved by a majority of the district voters
14 voting at an election held for that purpose.

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

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8476.201. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 8476.202. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8476.203. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The LaSalle Municipal Utility District No. 5
10 initially includes all the territory contained in the following
11 area:

12 FIELD NOTE DESCRIPTION OF 275.81 ACRES OF LAND OUT OF THE WILLIAM
13 HEMPHILL SURVEY ABSTRACT No. 221 IN HAYS COUNTY, TEXAS, BEING A
14 PORTION OF THAT CERTAIN (811.38 ACRE) TRACT OF LAND AS CONVEYED TO
15 LASALLE HOLDINGS, LTD. BY SPECIAL WARRANTY DEED RECORDED IN VOLUME
16 2909 PAGE 684 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS,
17 AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS
18 FOLLOWS:

19 BEGINNING FOR REFERENCE at a capped iron rod found (marked
20 "ProTech") in the Northwest line of the Old San Antonio Road for the
21 most Easterly corner of that certain (811.38 acre) tract of land as
22 conveyed to LaSalle Holdings by Special Warranty Deed recorded in
23 Volume 2909 Page 684 of the Official Public Records of Hays County,
24 Texas;

25 THENCE with the Southeast line of said LaSalle Holdings (811.38
26 acre) tract, S 48 deg. 44' 13" W 178.85 ft. to a capped iron rod
27 found (marked "Byrn") at the point of intersection with the curving

1 Northwest right-of-way line State Highway No. 21;
2 THENCE with the Northwest right-of-way line of State Highway No.
3 21, the following two (2) courses;

4 1) along a curve to the left with a radius of 5779.51 ft. for
5 an arc length of 830.52 ft. and which chord bears S 52 deg. 53' 22" W
6 829.80 ft. to a PK nail found in a broken concrete monument for a
7 point of tangency;

8 2) S 48 deg. 46' 22" W 1475.74 ft. to a 1/2" iron rod found for
9 the most Southerly corner of said LaSalle Holdings (811.38 acre)
10 tract;

11 THENCE leaving the Northwest right-of-way line of State Highway No.
12 21 with a Southerly line of said LaSalle Holdings (811.38 acre)
13 tract, the following two (2) courses;

14 1) N 45 deg. 31' 36" W 2950.62 ft.;

15 2) S 44 deg. 02' 00" W 1300.00 ft. to a point for an Easterly
16 angle corner and PLACE OF BEGINNING of the herein described tract of
17 land;

18 THENCE continuing with a Southerly or Southeasterly line of said
19 LaSalle Holdings (811.38 acre) tract, S 44 deg. 02' 00" W 1863.28
20 ft. to a point for the most Southerly corner of this tract;

21 THENCE continuing with a Southerly line of said LaSalle Holdings
22 (811.38 acre) tract, the following thirteen (13) courses;

23 1) N 54 deg. 17' 20" W 771.66 ft.;

24 2) S 83 deg. 08' 18" W 840.88 ft.;

25 3) N 52 deg. 17' 55" W 690.89 ft.;

26 4) N 62 deg. 00' 02" W 69.27 ft.;

27 5) N 68 deg. 09' 41" W 56.18 ft.;

1 6) N 72 deg. 20' 49" W 88.29 ft. ;
2 7) N 73 deg. 00' 27" W 53.89 ft. ;
3 8) N 78 deg. 17' 31" W 427.31 ft. ;
4 9) N 88 deg. 16' 13" W 82.92 ft. ;
5 10) S 89 deg. 50' 43" W 252.84 ft. ;
6 11) N 77 deg. 42' 55" W 289.03 ft ;
7 12) N 69 deg. 45' 12" W 133.17 ft. ;
8 13) N 65 deg. 20' 24" W 1059.29 ft. to a point in the
9 Southeast line of Hays County Road No. 158 for the most Westerly
10 corner of said LaSalle Holdings (811.38 acre) tract and being the
11 most Westerly corner of this tract ;
12 THENCE with the Southeast line of Hays County Road No. 158 and with
13 the Northwest line of said LaSalle Holdings (811.38 acre) tract,
14 the following two (2) courses ;
15 1) N 43 deg. 32' 03" E 3243.31 ft. to a 1/2" iron rod found ;
16 2) N 43 deg. 26' 25" E 605.66 ft. to a point for the most
17 Northerly corner of this tract, and from which a capped iron rod
18 found (marked "Byrn") in the Southeast line of Hays County Road No.
19 158 and in the Northwest line of said LaSalle Holdings (811.38 acre)
20 tract bears N 43 deg. 26' 25" E 482.55 ft ;
21 THENCE crossing the interior of said LaSalle Holdings (811.38 acre)
22 tract with the Northeast line of this tract, S 45 deg. 39' 03" E
23 4231.53 ft. to the PLACE OF BEGINNING, containing 275.81 acres of
24 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. (a) If this Act does not receive a two-thirds
17 vote of all the members elected to each house, Subchapter C, Chapter
18 8476, Special District Local Laws Code, as added by Section 1 of
19 this Act, is amended by adding Section 8476.106 to read as follows:

20 Sec. 8476.106. NO EMINENT DOMAIN POWER. The district may
21 not exercise the power of eminent domain.

22 (b) This section is not intended to be an expression of a
23 legislative interpretation of the requirements of Section 17(c),
24 Article I, Texas Constitution.

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2013.