

By: Zaffirini

S.B. No. 1862

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Crosswinds Municipal Utility
3 District; granting a limited power of eminent domain; providing
4 authority to issue bonds; providing authority to impose
5 assessments, fees, or taxes.

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

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 8468 to read as follows:

9 CHAPTER 8468. CROSSWINDS MUNICIPAL UTILITY DISTRICT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8468.001. DEFINITIONS. In this chapter:

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

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

15 (3) "Director" means a board member.

16 (4) "District" means the Crosswinds Municipal Utility
17 District.

18 Sec. 8468.002. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 8468.003. CONFIRMATION AND DIRECTORS' ELECTION
22 REQUIRED. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five permanent
24 directors as provided by Section 49.102, Water Code.

1 Sec. 8468.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 8468.003
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. 8468.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of a
10 municipal utility district as provided by general law and Section
11 59, Article XVI, Texas Constitution.

12 Sec. 8468.006. INITIAL DISTRICT TERRITORY. (a) The
13 district is initially composed of the territory described by
14 Section 2 of the Act enacting this chapter.

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

19 (1) organization, existence, or validity;

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

23 (3) right to impose a tax; or

24 (4) legality or operation.

25 SUBCHAPTER B. BOARD OF DIRECTORS

26 Sec. 8468.051. GOVERNING BODY; TERMS. (a) The district is
27 governed by a board of five elected directors.

1 (b) Except as provided by Section 8468.052, directors serve
2 staggered four-year terms.

3 Sec. 8468.052. TEMPORARY DIRECTORS. (a) The temporary
4 board consists of:

5 (1) Anthony Dell Abate;

6 (2) John Avent;

7 (3) Barry Clark;

8 (4) Roy Sanders; and

9 (5) Lee Weber.

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

11 (1) the date permanent directors are elected under
12 Section 8468.003; or

13 (2) the fourth anniversary of the effective date of
14 the Act enacting this chapter.

15 (c) If permanent directors have not been elected under
16 Section 8468.003 and the terms of the temporary directors have
17 expired, successor temporary directors shall be appointed or
18 reappointed as provided by Subsection (d) to serve terms that
19 expire on the earlier of:

20 (1) the date permanent directors are elected under
21 Section 8468.003; or

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

24 (d) If Subsection (c) applies, the owner or owners of a
25 majority of the assessed value of the real property in the district
26 may submit a petition to the commission requesting that the
27 commission appoint as successor temporary directors the five

1 persons named in the petition. The commission shall appoint as
2 successor temporary directors the five persons named in the
3 petition.

4 SUBCHAPTER C. POWERS AND DUTIES

5 Sec. 8468.101. GENERAL POWERS AND DUTIES. The district has
6 the powers and duties necessary to accomplish the purposes for
7 which the district is created.

8 Sec. 8468.102. MUNICIPAL UTILITY DISTRICT POWERS AND
9 DUTIES. The district has the powers and duties provided by the
10 general law of this state, including Chapters 49 and 54, Water Code,
11 applicable to municipal utility districts created under Section 59,
12 Article XVI, Texas Constitution.

13 Sec. 8468.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
14 OR RESOLUTION. The district shall comply with all applicable
15 requirements of any ordinance or resolution that is adopted under
16 Section 54.016 or 54.0165, Water Code, and that consents to the
17 creation of the district or to the inclusion of land in the
18 district.

19 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

20 Sec. 8468.151. ELECTIONS REGARDING TAXES OR BONDS.

21 (a) The district may issue, without an election, bonds and other
22 obligations secured by:

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

24 (2) contract payments described by Section 8468.153.

25 (b) The district must hold an election in the manner
26 provided by Chapters 49 and 54, Water Code, to obtain voter approval
27 before the district may impose an ad valorem tax or issue bonds

1 payable from ad valorem taxes.

2 Sec. 8468.152. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8468.151, the district
4 may impose an operation and maintenance tax on taxable property in
5 the district in accordance with Section 49.107, Water Code.

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

8 Sec. 8468.153. CONTRACT TAXES. (a) In accordance with
9 Section 49.108, Water Code, the district may impose a tax other than
10 an operation and maintenance tax and use the revenue derived from
11 the tax to make payments under a contract after the provisions of
12 the contract have been approved by a majority of the district voters
13 voting at an election held for that purpose.

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

17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

18 Sec. 8468.201. AUTHORITY TO ISSUE BONDS AND OTHER
19 OBLIGATIONS. The district may issue bonds or other obligations
20 payable wholly or partly from ad valorem taxes, impact fees,
21 revenue, contract payments, grants, or other district money, or any
22 combination of those sources, to pay for any authorized district
23 purpose.

24 Sec. 8468.202. TAXES FOR BONDS. At the time the district
25 issues bonds payable wholly or partly from ad valorem taxes, the
26 board shall provide for the annual imposition of a continuing
27 direct ad valorem tax, without limit as to rate or amount, while all

1 or part of the bonds are outstanding as required and in the manner
2 provided by Sections 54.601 and 54.602, Water Code.

3 SECTION 2. The Crosswinds Municipal Utility District
4 initially includes all the territory contained in the following
5 area:

6 BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF
7 THE JESSE B. EAVES SURVEY, ABSTRACT 166, AND THE SAMUEL LITTLE
8 SURVEY, ABSTRACT 286, SITUATED IN HAYS COUNTY, TEXAS, SAID TRACT OF
9 LAND BEING MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF THAT
10 CERTAIN 446.80 ACRES OF LAND CONVEYED TO H.H. PHILLIPS IN VOLUME
11 201, PAGE 19 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, SAID TRACT
12 BEING 445.11 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS
13 AS FOLLOWS:

14 BEGINNING, at an iron pin found on the South right-of-way line of
15 County Road 131, said iron pin also being located at the most
16 northeasterly corner of Lot 27, Block D, of Dove Hills Estates
17 Section One, a subdivision recorded in Volume 2, Page 325 of the
18 Deed Records of Hays County, Texas, said iron pin also being located
19 at the most northwesterly corner of the herein described tract, and
20 also POINT OF BEGINNING of the herein described tract,

21 THENCE, with the new South right-of-way line of said County Road 131
22 S89°08'29"E, a distance of 2,340.02 feet to an iron pin found, said
23 iron pin being located at a point of curvature to the left,

24 THENCE, continuing with curve along the new South right-of-way line
25 of said County Road 131 that has a central angle of 12°27'00", a
26 radius of 1628.52 feet, a length of 353.87 feet, a chord of 353.17
27 feet, and a bearing of N84°38'01"E, to an iron pin found,

1 THENCE, leaving the new right-of-way line of said County Road 131
2 and continuing with the old right-of-way line of said County Road
3 131, S89°59'48"E, a distance of 124.98 feet to a concrete nail, said
4 nail being located along the common line of said Samuel Little
5 Survey and said Jesse B. Eaves Survey, said nail also being located
6 at the most northeasterly corner of the herein described tract,
7 THENCE, leaving the old right-of-way line of said County Road 131
8 and continuing with the common line of the Samuel Little Survey and
9 the Jesse B. Eaves Survey S45°23'27"W, a distance of 981.04 feet to
10 an iron pin, said iron pin being a westerly corner of the herein
11 described tract,
12 THENCE, leaving the common line of the Samuel Little Survey and the
13 Jesse B. Eaves Survey S44°46'41"E, a distance of 134.69 feet to an
14 iron pin found, said iron pin being located at the West corner of a
15 7.771 acre tract of land conveyed to Alice Rios in Document 9925762
16 of the Deed Records of Hays County, Texas,
17 THENCE, continuing along an eastern line of the herein described
18 tract S45°05'21"E, a distance of 1,003.31 feet to an iron pin found,
19 said iron pin being located at the South corner of a 9.998 acre
20 tract of land conveyed to Ronald D. Holifield and Melodie A.
21 Holifield in Volume 1324, Page 651 of the Deed Records of Hays
22 County, Texas,
23 THENCE, continuing along an east line of the herein described tract
24 S44°42'12"E, a distance of 181.24 feet to a concrete nail, said nail
25 being located at the North corner of a 100.15 acre tract of land
26 conveyed to Ray E. Jones and Annie B. Jones in Volume 1135, Page 868
27 of the Deed Records of Hays County, Texas, said nail also being

1 located at an East corner of the herein described tract,
2 THENCE, with the North line of said Jones Tract, S45°25'00"W, a
3 distance of 1,662.52 feet to an iron pin, said iron pin being
4 located at the West corner of said Jones Tract, said iron pin also
5 being located at an East corner of the herein described tract,
6 THENCE, with the East line of said Jones Tract S44°45'16"E, a
7 distance of 2,630.83 feet to a concrete nail, said nail being
8 located at the South corner of said Jones Tract, said nail also
9 being located at the most easterly corner of the herein described
10 tract, said nail also being located on the North right-of-way line
11 of County Road 157,
12 THENCE, with the North right-of-way line of said County Road 157
13 S45°00'00"W a distance of 3,404.46 feet to a concrete nail found,
14 said nail being located at the most easterly corner of Lot 94 of
15 Sunrise Acres, a subdivision recorded in Volume 2, Page 346 of the
16 Deed Records of Hays County, Texas, said nail also being located at
17 the most southern corner of the herein described tract,
18 THENCE, leaving the North right-of-way line of said County Road 157
19 and continuing with the most westerly line of said Sunrise Acres the
20 following three (3) courses and distances:
21 (1) N44°43'39"W, a distance of 2,207.70 feet to an iron pin
22 found,
23 (2) N44°53'47"W, a distance of 969.22 feet to an iron pin
24 found,
25 (3) N44°48'29"W, a distance of 758.82 feet to an iron pin
26 found, said iron pin being located at the most northerly corner of
27 said Sunrise Acres, said iron pin also being located at the most

1 westerly corner of the herein described tract,
2 THENCE, with a west line of the herein described tract N44°38'24"E,
3 a distance of 1,058.81 feet to an iron pin, said iron pin being
4 located at an angle point of Lot 25, of Dove Hills Estates Section
5 Two, a subdivision recorded in Volume 3, Page 179 of the Deed
6 Records of Hays County, Texas,
7 THENCE, with an eastern line of said Dove Hills Estates Section Two
8 the following four (4) courses and distances:
9 (1) N44°52'26"E, a distance of 1,105.77 feet to a 60d nail
10 found,
11 (2) N44°51'31"E, a distance of 661.25 feet to an iron pin
12 found,
13 (3) N44°50'37"E, a distance of 399.21 feet to an iron pin
14 found,
15 (4) N44°44'50"E, a distance of 175.19 feet to an iron pin,
16 said iron pin being located at the most westerly corner of Lot 12 of
17 said Dove Hills Estates Section Two,
18 THENCE, leaving the eastern line of said Dove Hills Estates Section
19 Two N44°44'50"E, a distance of 14.18 feet to an iron pin found, said
20 iron pin being located at an angle point for the herein described
21 tract,
22 THENCE, S84°26'55"W, a distance of 19.78 feet to an iron pin found,
23 said iron pin being located at the most northerly corner of said Lot
24 12 of Dove Hills Estates Section Two,
25 THENCE, with a north line of said Dove Hills Estates Section Two the
26 following four (4) courses and distances:
27 (1) S87°52'28"W, a distance of 456.24 feet to an iron pin

1 found,
2 (2) S87°51'08"W, a distance of 526.71 feet to an iron pin
3 found,
4 (3) S87°47'58"W, a distance of 300.16 feet to an iron pin
5 found,
6 (4) S89°38'13"W, a distance of 46.72 feet to a 60d nail found
7 in post, said nail being located at the common corner of Lot 1 of
8 Dove Hills Estates Section Two and Lot 15 of Dove Hills Estates
9 Section One, said nail also being located at an east corner of the
10 herein described tract,
11 THENCE, with the east line of said Dove Hills Estates Section One
12 the following nine (9) courses and distances:
13 (1) N08°33'38"E, a distance of 336.88 feet to an iron pin,
14 (2) N25°12'16"E, a distance of 56.49 feet to an iron pin
15 found,
16 (3) N25°12'16"E, a distance of 362.11 feet to an iron pin
17 found,
18 (4) N09°01'18"E, a distance of 41.65 feet to an iron pin
19 found,
20 (5) N08°24'13"E, a distance of 276.06 feet to an iron pin
21 found,
22 (6) N08°11'26"E, a distance of 179.37 feet to an iron pin
23 found,
24 (7) N08°18'28"E, a distance of 158.36 feet to an iron pin
25 found,
26 (8) N08°19'18"E, a distance of 315.02 feet to an iron pin
27 found,

1 (9) N08°40'18"E, a distance of 230.02 feet to the POINT OF
2 BEGINNING, containing the 445.11 acres tract of land.

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

10 (b) The governor, one of the required recipients, has
11 submitted the notice and Act to the Texas Commission on
12 Environmental Quality.

13 (c) The Texas Commission on Environmental Quality has filed
14 its recommendations relating to this Act with the governor, the
15 lieutenant governor, and the speaker of the house of
16 representatives within the required time.

17 (d) All requirements of the constitution and laws of this
18 state and the rules and procedures of the legislature with respect
19 to the notice, introduction, and passage of this Act are fulfilled
20 and accomplished.

21 SECTION 4. (a) If this Act does not receive a two-thirds
22 vote of all the members elected to each house, Subchapter C, Chapter
23 8468, Special District Local Laws Code, as added by Section 1 of
24 this Act, is amended by adding Section 8468.104 to read as follows:

25 Sec. 8468.104. NO EMINENT DOMAIN POWER. The district may
26 not exercise the power of eminent domain.

27 (b) This section is not intended to be an expression of a

1 legislative interpretation of the requirements of Subsection (c),
2 Section 17, Article I, Texas Constitution.

3 SECTION 5. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2013.