

By: Burns

H.B. No. 3605

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Joshua Farms Municipal Management District No. 2; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose an ad valorem tax, assessments, or fees.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3929 to read as follows:

CHAPTER 3929. JOSHUA FARMS MUNICIPAL MANAGEMENT DISTRICT NO. 2

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3929.001. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Cleburne, Texas.

(3) "County" means Johnson County, Texas.

(4) "Director" means a board member.

(5) "District" means the Joshua Farms Municipal Management District No. 2.

Sec. 3929.002. CREATION AND NATURE OF DISTRICT. The Joshua Farms Municipal Management District No. 2 is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3929.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI,

1 Texas Constitution, and other public purposes stated in this
2 chapter. By creating the district and in authorizing the city and
3 other political subdivisions to contract with the district, the
4 legislature has established a program to accomplish the public
5 purposes set out in Section 52-a, Article III, Texas Constitution.

6 (b) The creation of the district is necessary to promote,
7 develop, encourage, and maintain employment, commerce,
8 transportation, housing, tourism, recreation, the arts,
9 entertainment, economic development, safety, and the public
10 welfare in the district.

11 Sec. 3929.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
12 The district is created to serve a public use and benefit.

13 (b) All land and other property included in the district
14 will benefit from the improvements and services to be provided by
15 the district under powers conferred by Sections 52 and 52-a,
16 Article III, and Section 59, Article XVI, Texas Constitution, and
17 other powers granted under this chapter.

18 (c) The district is created to accomplish the purposes of a
19 municipal management district as provided by general law and
20 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
21 Texas Constitution.

22 (d) The creation of the district is in the public interest
23 and is essential to:

24 (1) further the public purposes of developing and
25 diversifying the economy of the state;

26 (2) eliminate unemployment and underemployment; and

27 (3) develop or expand transportation and commerce.

1 (e) The district will:

2 (1) promote the health, safety, and general welfare of
3 residents, employers, potential employees, employees, visitors,
4 and consumers in the district, and of the public;

5 (2) provide needed funding for the district to
6 preserve, maintain, and enhance the economic health and vitality of
7 the district territory as a community and business center; and

8 (3) promote the health, safety, welfare, and enjoyment
9 of the public by providing pedestrian ways and by landscaping and
10 developing certain areas in the district, which are necessary for
11 the restoration, preservation, and enhancement of scenic beauty.

12 (f) Pedestrian ways along or across a street, whether at
13 grade or above or below the surface, and street lighting, street
14 landscaping, parking, and street art objects are parts of and
15 necessary components of a street and are considered to be a street
16 or road improvement.

17 Sec. 3929.005. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

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

24 (1) organization, existence, or validity;

25 (2) right to contract;

26 (3) authority to borrow money or issue bonds or other
27 obligations described by Section 3929.253 or to pay the principal

1 and interest of the bonds or other obligations;

2 (4) right to impose or collect an assessment, tax, or
3 any other revenue; or

4 (5) legality or operation.

5 Sec. 3929.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

6 (a) All or any part of the area of the district is eligible to be
7 included in:

8 (1) a tax increment reinvestment zone created under
9 Chapter 311, Tax Code;

10 (2) a tax abatement reinvestment zone created under
11 Chapter 312, Tax Code; or

12 (3) an enterprise zone created under Chapter 2303,
13 Government Code.

14 (b) If the city creates a tax increment reinvestment zone
15 described by Subsection (a), the city and the board of directors of
16 the zone, by contract with the district, may grant money deposited
17 in the tax increment fund to the district to be used by the district
18 for:

19 (1) the purposes permitted for money granted to a
20 corporation under Section 380.002(b), Local Government Code; and

21 (2) any other district purpose, including the right to
22 pledge the money as security for any bonds or other obligations
23 issued by the district under Section 3929.253.

24 (c) If the city creates a tax increment reinvestment zone
25 described by Subsection (a), the city may determine the percentage
26 of the property in the zone that may be used for residential
27 purposes and is not subject to the limitations provided by Section

1 311.006, Tax Code.

2 Sec. 3929.007. CONFIRMATION AND DIRECTORS' ELECTION
3 REQUIRED. The initial directors shall hold an election to confirm
4 the creation of the district and to elect five permanent directors
5 as provided by Section 49.102, Water Code.

6 Sec. 3929.008. APPLICABILITY OF MUNICIPAL MANAGEMENT
7 DISTRICT LAW. Except as provided by this chapter, Chapter 375,
8 Local Government Code, applies to the district.

9 Sec. 3929.009. CONSTRUCTION OF CHAPTER. This chapter shall
10 be liberally construed in conformity with the findings and purposes
11 stated in this chapter.

12 SUBCHAPTER B. BOARD OF DIRECTORS

13 Sec. 3929.051. GOVERNING BODY; TERMS. (a) The district is
14 governed by a board of five elected directors.

15 (b) Except as provided by Section 3929.053, directors serve
16 staggered four-year terms, with two or three directors' terms
17 expiring June 1 of each odd-numbered year.

18 Sec. 3929.052. BOARD MEETINGS. The board shall hold
19 meetings at a place accessible to the public.

20 Sec. 3929.053. INITIAL DIRECTORS. (a) The initial board
21 consists of:

	<u>Pos. No.</u>	<u>Name of Director</u>
22		
23	<u>1</u>	<u>David Rex</u>
24	<u>2</u>	<u>Barb Levis</u>
25	<u>3</u>	<u>John Tatum</u>
26	<u>4</u>	<u>Charles Collie</u>
27	<u>5</u>	<u>Stephanie Fine</u>

1 (b) Initial directors serve until the earlier of:

2 (1) the date permanent directors are elected under
3 Section 3929.007; or

4 (2) the fourth anniversary of the effective date of
5 the Act enacting this chapter.

6 (c) If permanent directors have not been elected under
7 Section 3929.007 and the terms of the initial directors have
8 expired, successor initial directors shall be appointed or
9 reappointed as provided by Subsection (d) to serve terms that
10 expire on the earlier of:

11 (1) the date permanent directors are elected under
12 Section 3929.007; or

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

15 (d) If Subsection (c) applies, the owner or owners of a
16 majority of the assessed value of the real property in the district
17 according to the most recent certified tax appraisal rolls for the
18 county may submit a petition to the Texas Commission on
19 Environmental Quality requesting that the commission appoint as
20 successor initial directors the five persons named in the petition.
21 The commission shall appoint as successor initial directors the
22 five persons named in the petition.

23 SUBCHAPTER C. POWERS AND DUTIES

24 Sec. 3929.101. GENERAL POWERS AND DUTIES. The district has
25 the powers and duties necessary to accomplish the purposes for
26 which the district is created.

27 Sec. 3929.102. IMPROVEMENT PROJECTS. The district may

1 provide, or it may enter into contracts with a governmental or
2 private entity to provide, the improvement projects described by
3 Subchapter C-1 or activities in support of or incidental to those
4 projects.

5 Sec. 3929.103. WATER DISTRICT POWERS. The district has the
6 powers provided by the general laws relating to conservation and
7 reclamation districts created under Section 59, Article XVI, Texas
8 Constitution, including Chapters 49 and 54, Water Code.

9 Sec. 3929.104. ROAD DISTRICT POWERS. The district has the
10 powers provided by the general laws relating to road districts and
11 road utility districts created under Section 52(b), Article III,
12 Texas Constitution, including Chapters 257 and 441, Transportation
13 Code.

14 Sec. 3929.105. PUBLIC IMPROVEMENT DISTRICT POWERS. The
15 district has the powers provided by Chapter 372, Local Government
16 Code, to a municipality or county.

17 Sec. 3929.106. CONTRACT POWERS. The district may contract
18 with a governmental or private entity, on terms determined by the
19 board, to carry out a power or duty authorized by this chapter or to
20 accomplish a purpose for which the district is created.

21 Sec. 3929.107. ECONOMIC DEVELOPMENT. (a) The district may
22 engage in activities that accomplish the economic development
23 purposes of the district.

24 (b) The district may establish and provide for the
25 administration of one or more programs to promote state or local
26 economic development and to stimulate business and commercial
27 activity in the district, including programs to:

1 (1) make loans and grants of public money; and

2 (2) provide district personnel and services.

3 (c) The district may create economic development programs
4 and exercise the economic development powers that:

5 (1) Chapter 380, Local Government Code, provides to a
6 municipality; and

7 (2) Subchapter A, Chapter 1509, Government Code,
8 provides to a municipality.

9 Sec. 3929.108. ADDING OR REMOVING TERRITORY. As provided
10 by Subchapter J, Chapter 49, Water Code, the board may add territory
11 inside the boundaries of the city or the extraterritorial
12 jurisdiction of the city to the district or remove territory inside
13 the boundaries of the city or the extraterritorial jurisdiction of
14 the city from the district, except that:

15 (1) the addition or removal of the territory must be
16 approved by the city;

17 (2) the addition or removal may not occur without
18 petition by the owners of the territory being added or removed; and

19 (3) territory may not be removed from the district if
20 bonds or other obligations of the district payable wholly or partly
21 from taxes or assessments assessed on the territory are
22 outstanding.

23 Sec. 3929.109. NO TOLL ROADS. The district may not
24 construct, acquire, maintain, or operate a toll road.

25 Sec. 3929.110. EMINENT DOMAIN. (a) Section 375.094, Local
26 Government Code, does not apply to the district.

27 (b) The district may acquire by condemnation any land,

1 easements, or other property inside or outside the district's
2 boundaries or the boundaries of the certificated service area of a
3 water supply corporation necessary for water, sanitary sewer, storm
4 drainage, flood drainage, or control or roadway purposes, or for
5 any other of the district's projects or purposes, and may elect to
6 condemn either the fee simple title or a lesser property interest.

7 (c) The right of eminent domain shall be exercised in the
8 manner provided by Chapter 21, Property Code, except that the
9 district is not required to give bond for appeal or bond for costs
10 in any condemnation suit or other suit to which it is a party and is
11 not required to deposit more than the amount of any award in any
12 suit.

13 (d) The district may not use the power of eminent domain to
14 condemn land for the purpose of acquiring rights to underground
15 water or acquiring water or water rights.

16 SUBCHAPTER C-1. IMPROVEMENT PROJECTS AND SERVICES

17 Sec. 3929.151. IMPROVEMENT PROJECTS AND SERVICES. The
18 district may provide, design, construct, acquire, improve,
19 relocate, operate, maintain, or finance an improvement project or
20 service, including water, wastewater, drainage, and roadway
21 projects or services, using any money available to the district, or
22 contract with a governmental or private entity and reimburse that
23 entity for the provision, design, construction, acquisition,
24 improvement, relocation, operation, maintenance, or financing of
25 an improvement project, service, or cost, for the provision of
26 credit enhancement, or for any cost of operating or maintaining the
27 district or the issuance of district obligations authorized under

1 this chapter, Chapter 372 or 375, Local Government Code, or Chapter
2 49 or 54, Water Code.

3 Sec. 3929.152. BOARD DETERMINATION REQUIRED. The district
4 may not undertake an improvement project unless the board
5 determines the project is necessary to accomplish a public purpose
6 of the district.

7 Sec. 3929.153. LOCATION OF IMPROVEMENT PROJECT. An
8 improvement project may be located or provide service inside or
9 outside the district.

10 Sec. 3929.154. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE
11 AREA. The district may undertake an improvement project or service
12 that confers a special benefit on a definable area in the district
13 and levy and collect a special assessment on benefited property in
14 the district in accordance with:

15 (1) Chapter 372, Local Government Code; or

16 (2) Chapter 375, Local Government Code.

17 Sec. 3929.155. CONTRACTS. A contract to design, construct,
18 acquire, improve, relocate, operate, maintain, or finance an
19 improvement project is considered a contract for a good or service
20 under Subchapter I, Chapter 271, Local Government Code.

21 SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

22 Sec. 3929.201. DIVISION OF DISTRICT; PREREQUISITE. The
23 district, including territory added to the district under Section
24 3929.108, may be divided into two or more new districts only if the
25 district has no outstanding bonded debt. Territory previously
26 added to the district under Section 3929.108 may be included in a
27 new district.

1 Sec. 3929.202. LAW APPLICABLE TO NEW DISTRICT. This
2 chapter applies to any new district created by division of the
3 district, and a new district has all the powers and duties of the
4 district.

5 Sec. 3929.203. DIVISION PROCEDURES. (a) The board, on its
6 own motion or on receipt of a petition signed by an owner of real
7 property in the district, may adopt an order proposing to divide the
8 district.

9 (b) If the board decides to divide the district, the board
10 shall, subject to the city's resolution or ordinance:

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

14 (2) prepare a metes and bounds description for each
15 proposed district; and

16 (3) appoint initial directors for each new district.

17 Sec. 3929.204. NOTICE AND RECORDING OF ORDER. Not later
18 than the 30th day after the date of an order dividing the district,
19 the district shall:

20 (1) file the order with the Texas Commission on
21 Environmental Quality; and

22 (2) record the order in the real property records of
23 the county.

24 Sec. 3929.205. CONTRACT AUTHORITY OF NEW DISTRICTS. (a)
25 Except as provided by Subsection (b), the new districts may
26 contract with each other for any matter the boards of the new
27 districts consider appropriate, including the joint construction

1 or financing of a utility or roadway improvement and the joint
2 financing of a maintenance obligation.

3 (b) The new districts may not contract with each other for
4 water and wastewater services. This subsection does not affect the
5 right to contract described by Subsection (a).

6 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

7 Sec. 3929.251. DISBURSEMENTS AND TRANSFERS OF MONEY. The
8 board by resolution shall establish the number of directors'
9 signatures and the procedure required for a disbursement or
10 transfer of the district's money.

11 Sec. 3929.252. MONEY USED FOR IMPROVEMENTS OR SERVICES.
12 The district may undertake and provide an improvement project or
13 service authorized by this chapter using any money available to the
14 district.

15 Sec. 3929.253. BORROWING MONEY; OBLIGATIONS. (a) The
16 district may borrow money for a district purpose, including the
17 acquisition or construction of improvement projects authorized by
18 this chapter and the reimbursement of a person who develops or owns
19 an improvement project authorized by this chapter, by issuing
20 bonds, notes, time warrants, or other obligations, or by entering
21 into a contract or other agreement payable wholly or partly from an
22 assessment, a contract payment, a grant, revenue from a zone
23 created under Chapter 311 or 312, Tax Code, other district revenue,
24 or a combination of these sources.

25 (b) An obligation described by Subsection (a):

26 (1) may bear interest at a rate determined by the
27 board; and

1 (2) may include a term or condition as determined by
2 the board.

3 Sec. 3929.254. CERTAIN OBLIGATIONS NOT SUBJECT TO APPROVAL
4 OF TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. Section 375.208,
5 Local Government Code, and Section 49.181, Water Code, do not apply
6 to the district.

7 Sec. 3929.255. ELECTIONS REGARDING TAXES OR BONDS. (a) The
8 district may issue, without an election, bonds and other
9 obligations payable from any source other than ad valorem taxation.

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

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

18 Sec. 3929.256. OPERATION AND MAINTENANCE TAX. (a) If
19 authorized at an election, the district may impose an operation and
20 maintenance tax in accordance with Section 49.107, Water Code.

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

23 Sec. 3929.257. CONTRACT TAXES. (a) In accordance with
24 Section 49.108, Water Code, the district may impose a tax other than
25 an operation and maintenance tax and use the revenue derived from
26 the tax to make payments under a contract after the provisions of
27 the contract have been approved by a majority of the district voters

1 voting at an election held for that purpose.

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

5 Sec. 3929.258. ASSESSMENTS. (a) Except as provided by
6 Subsection (b), the district may impose an assessment on property
7 in the district to pay for an obligation described by Section
8 3929.253 or an improvement project authorized by Section 3929.151
9 in the manner provided for:

10 (1) a district under Subchapters A, E, and F, Chapter
11 375, Local Government Code; or

12 (2) a municipality or county under Subchapter A,
13 Chapter 372, Local Government Code.

14 (b) The district may not impose an assessment on a
15 municipality, county, or other political subdivision.

16 Sec. 3929.259. RESIDENTIAL PROPERTY NOT EXEMPT. Section
17 375.161, Local Government Code, does not apply to the district.

18 Sec. 3929.260. NO IMPACT FEES. The district may not impose
19 an impact fee.

20 SUBCHAPTER F. DISSOLUTION

21 Sec. 3929.301. DISSOLUTION BY CITY. (a) The city may
22 dissolve the district by ordinance.

23 (b) The city may not dissolve the district until:

24 (1) the district's outstanding debt or contractual
25 obligations have been repaid or discharged; or

26 (2) the city agrees to succeed to the rights and
27 obligations of the district, including an obligation described by

1 Section 3929.303.

2 Sec. 3929.302. COLLECTION OF TAXES, ASSESSMENTS, AND OTHER
3 REVENUE. (a) If the dissolved district has bonds or other
4 obligations outstanding secured by and payable from taxes,
5 assessments, or other revenue, the city succeeds to the rights and
6 obligations of the district regarding enforcement and collection of
7 the taxes, assessments, or other revenue.

8 (b) The city shall have and exercise all district powers to
9 enforce and collect the taxes, assessments, or other revenue to
10 pay:

11 (1) the bonds or other obligations when due and
12 payable according to their terms; or

13 (2) ad valorem tax bonds, special revenue or
14 assessment bonds, or other obligations issued by the city to refund
15 the outstanding bonds or obligations of the district.

16 Sec. 3929.303. ASSUMPTION OF ASSETS AND LIABILITIES. (a)
17 After the city dissolves the district, the city assumes the
18 obligations of the district, including any contractual obligations
19 or bonds or other debt payable from taxes, assessments, or other
20 district revenue.

21 (b) If the city dissolves the district, the board shall
22 transfer ownership of all district property to the city.

23 SECTION 2. The Joshua Farms Municipal Management District
24 No. 2 initially includes all the territory contained in the
25 following area:

26 BEING a tract of land situated in the B.B.B. & C.R.R. Co. Survey,
27 Abstract Number 103, the A.J. Tucker Survey, Abstract Number 833,

1 and the William P. King Survey, Abstract Number 489, Johnson
2 County, Texas and being a portion of that tract of land described by
3 deed Joshua Land Farm LLC., recorded in Instrument Number 22522,
4 County Records, Johnson County, Texas:

5 BEGINNING at the northwest corner of said Joshua Land Farm tract, in
6 the south right-of-way line of FM 917 (a 80 foot right-of-way);
7 THENCE N 89°58'32"E, 1768.76 feet with said south right-of-way;
8 THENCE S 01°19'08"E, 1991.93 feet;
9 THENCE N 89°05'57"E, 3989.06 feet;
10 THENCE N 89°16'48"E, 830.50 feet to the east line of said Joshua Land
11 Farm tract;
12 THENCE S 00°04'27"W, 1665.41 feet with said east line;
13 THENCE S 89°28'44"W, 3093.70 feet with said east line;
14 THENCE S 00°03'03"W, 1465.70 feet with said east line;
15 THENCE S 68°17'01"W, 1321.19 feet departing said east line;
16 THENCE N 56°14'59"W, 442.41 feet;
17 THENCE N 33°45'00"W, 3383.50 feet to the west line of said Joshua
18 Land Farm tract;
19 THENCE N 01°24'23"W, 2507.29 feet with said west line to the Point of
20 Beginning and containing 17,649,096 square feet or 405 acres of
21 land more or less.

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

1 Government Code.

2 (b) The governor, one of the required recipients, has
3 submitted the notice and Act to the Texas Commission on
4 Environmental Quality.

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

9 (d) All requirements of the constitution and laws of this
10 state and the rules and procedures of the legislature with respect
11 to the notice, introduction, and passage of this Act have been
12 fulfilled and accomplished.

13 SECTION 4. (a) Section 3929.110, Special District Local
14 Laws Code, as added by Section 1 of this Act, takes effect only if
15 this Act receives a two-thirds vote of all the members elected to
16 each house.

17 (b) If this Act does not receive a two-thirds vote of all the
18 members elected to each house, Subchapter C, Chapter 3929, Special
19 District Local Laws Code, as added by Section 1 of this Act, is
20 amended by adding Section 3929.110 to read as follows:

21 Sec. 3929.110. NO EMINENT DOMAIN POWER. The district may
22 not exercise the power of eminent domain.

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

26 SECTION 5. This Act takes effect September 1, 2015.