

By: Farney

H.B. No. 4160

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Burnet County Municipal Utility District No. 1; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and 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 7913 to read as follows:

CHAPTER 7913. BURNET COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7913.001. 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 Burnet County Municipal Utility District No. 1.

Sec. 7913.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7913.003. 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. 7913.004. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)

2 The district is created to serve a public purpose and benefit.

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

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

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

10 Sec. 7913.005. INITIAL DISTRICT TERRITORY. (a) The

11 district is initially composed of the territory described by
12 Section 2 of the Act enacting this chapter.

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

17 (1) organization, existence, or validity;

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

21 (3) right to impose a tax; or

22 (4) legality or operation.

23 SUBCHAPTER B. BOARD OF DIRECTORS

24 Sec. 7913.051. GOVERNING BODY; TERMS. (a) The district is

25 governed by a board of five elected directors.

26 (b) Except as provided by Section 7913.052, directors serve
27 staggered four-year terms.

1 Sec. 7913.052. TEMPORARY DIRECTORS. (a) On or after the
2 effective date of the Act enacting this chapter, the owner or owners
3 of a majority of the assessed value of the real property in the
4 district may submit a petition to the commission requesting that
5 the commission appoint as temporary directors the five persons
6 named in the petition. The commission shall appoint as temporary
7 directors the five persons named in the petition.

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

9 (1) the date permanent directors are elected under
10 Section 7913.003; or

11 (2) the fourth anniversary of the effective date of
12 the Act enacting this chapter.

13 (c) If permanent directors have not been elected under
14 Section 7913.003 and the terms of the temporary directors have
15 expired, successor temporary directors shall be appointed or
16 reappointed as provided by Subsection (d) to serve terms that
17 expire on the earlier of:

18 (1) the date permanent directors are elected under
19 Section 7913.003; or

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

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

1 petition.

2 SUBCHAPTER C. POWERS AND DUTIES

3 Sec. 7913.101. GENERAL POWERS AND DUTIES. The district has
4 the powers and duties necessary to accomplish the purposes for
5 which the district is created.

6 Sec. 7913.102. MUNICIPAL UTILITY DISTRICT POWERS AND
7 DUTIES. The district has the powers and duties provided by the
8 general law of this state, including Chapters 49 and 54, Water Code,
9 applicable to municipal utility districts created under Section 59,
10 Article XVI, Texas Constitution.

11 Sec. 7913.103. AUTHORITY FOR ROAD PROJECTS. Under Section
12 52, Article III, Texas Constitution, and Section 53.029(c), Water
13 Code, the district may design, acquire, construct, finance, issue
14 bonds for, improve, operate, maintain, and convey to this state, a
15 county, or a municipality for operation and maintenance
16 macadamized, graveled, or paved roads, or improvements, including
17 storm drainage, in aid of those roads.

18 Sec. 7913.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
19 project must meet all applicable construction standards, zoning and
20 subdivision requirements, and regulations of each municipality in
21 whose corporate limits or extraterritorial jurisdiction the road
22 project is located.

23 (b) If a road project is not located in the corporate limits
24 or extraterritorial jurisdiction of a municipality, the road
25 project must meet all applicable construction standards,
26 subdivision requirements, and regulations of each county in which
27 the road project is located.

1 (c) If the state will maintain and operate the road, the
2 Texas Transportation Commission must approve the plans and
3 specifications of the road project.

4 Sec. 7913.105. STRATEGIC PARTNERSHIP AGREEMENT. The
5 district may negotiate and enter into a written strategic
6 partnership agreement with a municipality under Section 43.0751,
7 Local Government Code.

8 Sec. 7913.106. DIVISION OF DISTRICT. (a) The district may
9 be divided into two or more new districts only if the district:

10 (1) has no outstanding bonded debt; and

11 (2) is not imposing ad valorem taxes.

12 (b) This chapter applies to any new district created by the
13 division of the district, and a new district has all the powers and
14 duties of the district.

15 (c) Any new district created by the division of the district
16 may not, at the time the new district is created, contain any land
17 outside the area described by Section 2 of the Act creating this
18 chapter.

19 (d) The board, on its own motion or on receipt of a petition
20 signed by the owner or owners of a majority of the assessed value of
21 the real property in the district, may adopt an order dividing the
22 district.

23 (e) The board may adopt an order dividing the district
24 before or after the date the board holds an election under Section
25 7913.003 to confirm the district's creation.

26 (f) An order dividing the district shall:

27 (1) name each new district;

1 (2) include the metes and bounds of each new district;

2 (3) appoint temporary directors for each new district

3 or provide that the owner or owners of a majority of the assessed

4 value of the real property in each new district may submit a

5 petition to the Texas Commission on Environmental Quality

6 requesting that the commission appoint as temporary directors the

7 five persons named in the petition; and

8 (4) provide for the division of assets and liabilities

9 between or among the new districts.

10 (g) On or before the 30th day after the date of adoption of

11 an order dividing the district, the district shall file the order

12 with the Texas Commission on Environmental Quality and record the

13 order in the real property records of each county in which the

14 district is located.

15 (h) Any new district created by the division of the district

16 shall hold a confirmation and directors' election as required by

17 Section 7913.003. A new district that is not confirmed is subject

18 to dissolution under general law.

19 (i) Any new district created by the division of the district

20 must hold an election as required by this chapter to obtain voter

21 approval before the district may impose a maintenance tax or issue

22 bonds payable wholly or partly from ad valorem taxes.

23 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

24 Sec. 7913.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The

25 district may issue, without an election, bonds and other

26 obligations secured by:

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

1 RECREATIONAL FACILITIES AND IMPROVEMENTS WITH ASSESSMENTS. (a)

2 Except as provided by this subchapter, the board may finance a
3 recreational facility or improvement with assessments on property
4 under this subchapter, but only if:

5 (1) a written petition requesting that facility or
6 improvement has been filed with the board; and

7 (2) the board holds a hearing on the proposed
8 assessments.

9 (b) The petition must be signed by the owners of a majority
10 of the assessed value of real property in the district subject to
11 assessment according to the most recent certified tax appraisal
12 roll for the county.

13 Sec. 7913.202. METHOD OF NOTICE FOR HEARING. The district
14 shall mail notice of the hearing to each property owner in the
15 district who will be subject to the assessment at the current
16 address to be assessed as reflected on the tax rolls. The district
17 may mail the notice by certified or first class United States mail.
18 The board shall determine the method of notice.

19 Sec. 7913.203. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) An
20 assessment or a reassessment imposed under this subchapter by the
21 district, penalties and interest on an assessment or reassessment,
22 an expense of collection, and reasonable attorney's fees incurred
23 by the district:

24 (1) are a first and prior lien against the property
25 assessed;

26 (2) are superior to any other lien or claim other than
27 a lien or claim for county, school district, or municipal ad valorem

1 taxes; and

2 (3) are the personal liability of and a charge against
3 the owners of the property even if the owners are not named in the
4 assessment proceedings.

5 (b) The lien is effective from the date of the board's
6 resolution imposing the assessment until the date the assessment is
7 paid. The board may enforce the lien in the same manner that the
8 board may enforce an ad valorem tax lien against real property.

9 (c) The board may make a correction to or deletion from the
10 assessment roll that does not increase the amount of assessment of
11 any parcel of land without providing notice and holding a hearing in
12 the manner required for additional assessments.

13 Sec. 7913.204. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
14 ASSESSMENTS. The district may not impose an impact fee or
15 assessment on the property, including the equipment,
16 rights-of-way, facilities, or improvements, of:

17 (1) an electric utility or a power generation company
18 as defined by Section 31.002, Utilities Code;

19 (2) a gas utility as defined by Section 101.003 or
20 121.001, Utilities Code;

21 (3) a telecommunications provider as defined by
22 Section 51.002, Utilities Code; or

23 (4) a person who provides to the public cable
24 television or advanced telecommunications services.

25 SUBCHAPTER F. BONDS AND OTHER OBLIGATIONS

26 Sec. 7913.251. AUTHORITY TO ISSUE BONDS AND OTHER
27 OBLIGATIONS. The district may issue bonds or other obligations

1 payable wholly or partly from ad valorem taxes, impact fees,
2 revenue, contract payments, grants, or other district money, or any
3 combination of those sources, to pay for any authorized district
4 purpose.

5 Sec. 7913.252. TAXES FOR BONDS. At the time the district
6 issues bonds payable wholly or partly from ad valorem taxes, the
7 board shall provide for the annual imposition of a continuing
8 direct ad valorem tax, without limit as to rate or amount, while all
9 or part of the bonds are outstanding as required and in the manner
10 provided by Sections 54.601 and 54.602, Water Code.

11 Sec. 7913.253. BONDS FOR ROAD PROJECTS. At the time of
12 issuance, the total principal amount of bonds or other obligations
13 issued or incurred to finance road projects and payable from ad
14 valorem taxes may not exceed one-fourth of the assessed value of the
15 real property in the district.

16 SUBCHAPTER G. DEFINED AREAS

17 Sec. 7913.301. AUTHORITY TO ESTABLISH DEFINED AREAS OR
18 DESIGNATED PROPERTY. The district may define areas or designate
19 certain property of the district to pay for improvements,
20 facilities, or services that primarily benefit that area or
21 property and do not generally and directly benefit the district as a
22 whole.

23 Sec. 7913.302. PROCEDURE FOR ELECTION. (a) Before the
24 district may impose an ad valorem tax or issue bonds payable from ad
25 valorem taxes of the defined area or designated property, the board
26 shall hold an election in the defined area or in the designated
27 property only.

1 (b) The board may submit the issues to the voters on the same
2 ballot to be used in another election.

3 Sec. 7913.303. DECLARING RESULT AND ISSUING ORDER. (a) If
4 a majority of the voters voting at the election approve the
5 proposition or propositions, the board shall declare the results
6 and, by order, shall establish the defined area and describe it by
7 metes and bounds or designate the specific property.

8 (b) A court may not review the board's order except on the
9 ground of fraud, palpable error, or arbitrary and confiscatory
10 abuse of discretion.

11 Sec. 7913.304. TAXES FOR SERVICES, IMPROVEMENTS, AND
12 FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter
13 approval and adoption of the order described by Section 7913.303,
14 the district may apply separately, differently, equitably, and
15 specifically its taxing power and lien authority to the defined
16 area or designated property to provide money to construct,
17 administer, maintain, and operate services, improvements, and
18 facilities that primarily benefit the defined area or designated
19 property.

20 Sec. 7913.305. ISSUANCE OF BONDS FOR DEFINED AREA OR
21 DESIGNATED PROPERTY. After the order under Section 7913.303 is
22 adopted, the district may issue bonds to provide for any land,
23 improvements, facilities, plants, equipment, and appliances for
24 the defined area or designated property.

25 SECTION 2. The Burnet County Municipal Utility District No.
26 1 initially includes all the territory contained in the following
27 area:

1 Being a parcel of land situated in the GC&SF RR CO Survey, Section
2 330, Grantee - J.N. Crawford, Abstract Number 1772, the HE&WT RR CO
3 Survey, Section 304, Grantee - J.N. Crawford, Abstract Number 1833,
4 the T&NO RR CO Survey, Section 2, Grantee - C.F. Burton, Abstract
5 Number 1756 and the Maria Catalina Salinas Survey Number 17,
6 Abstract Number 776 and being a portion of a parcel of land as
7 described in the deed to Hines HWY 71, Limited Partnership recorded
8 under Instrument Number 2007-9805 of the Official Public Records of
9 Burnet County, Texas (hereafter referred to as the Hines Tract),
10 being more particularly described as follows:

11 BEGINNING at a 12 inch diameter steel fence corner post found at the
12 northwest corner of said Hines Tract;

13 THENCE the following nineteen (19) calls coincident with the
14 perimeter and to the corners of said Hines Tract:

15 1. NORTH 88 degrees 07 minutes 25 seconds EAST, 160.65 feet
16 to a found 1/2 inch rebar;

17 2. NORTH 88 degrees 11 minutes 33 seconds EAST, 381.95 feet
18 to a found 1/2 inch rebar;

19 3. NORTH 88 degrees 17 minutes 11 seconds EAST, 557.49 feet
20 to a found cotton gin spindle in the base of a 24 inch Live Oak;

21 4. NORTH 87 degrees 48 minutes 14 seconds EAST, 106.07 feet
22 to a found 1/2 inch rebar;

23 5. NORTH 88 degrees 40 minutes 10 seconds EAST, 340.08 feet
24 to a found 1/2 inch rebar;

25 6. NORTH 88 degrees 21 minutes 35 seconds EAST, 161.15 feet
26 to a found 60D nail in the base of a 18 inch Cedar;

27 7. NORTH 88 degrees 02 minutes 57 seconds EAST, 588.76 feet

1 to a found 2.5 inch steel fence corner post;
2 8. NORTH 01 degree 44 minutes 40 seconds WEST, 760.21 feet
3 to a found 1/2 inch rebar;
4 9. NORTH 01 degree 29 minutes 14 seconds WEST, 214.13 feet
5 to a found 1/2 inch rebar;
6 10. NORTH 01 degree 53 minutes 17 seconds WEST, 590.33 feet
7 to a found 3/8 inch rebar;
8 11. SOUTH 77 degrees 00 minutes 08 seconds EAST, 491.52 feet
9 to a found 2.5 inch steel fence corner post;
10 12. NORTH 87 degrees 53 minutes 14 seconds EAST, 1554.95
11 feet to a found 2.5 inch steel fence corner post;
12 13. NORTH 00 degrees 38 minutes 32 seconds WEST, 566.01 feet
13 to a found 1/2 inch capped rebar stamped "Bergman 3103";
14 14. NORTH 00 degrees 28 minutes 11 seconds WEST, 406.18 feet
15 to a found 1/2 inch capped rebar stamp illegible;
16 15. NORTH 88 degrees 34 minutes 22 seconds EAST, 1439.89
17 feet to a found 1/2 inch rebar;
18 16. NORTH 89 degrees 03 minutes 16 seconds EAST, 502.28 feet
19 to a found 1/2 inch capped rebar stamped "Austin Surveyors";
20 17. NORTH 88 degrees 53 minutes 10 seconds EAST, 977.10 feet
21 to a found 1/2 inch rebar;
22 18. SOUTH 01 degree 17 minutes 47 seconds EAST, 2875.44 feet
23 to a found 3/8 inch rebar;
24 19. SOUTH 01 degree 12 minutes 03 seconds EAST, 1145.50 feet
25 to a set 1/2 inch capped rebar stamped "JPH LAND SURVEYING" set at
26 the intersection of the east line of said Hines Tract with the
27 Burnet-Travis County Line as described in Texas Senate Bill 1009,

1 an Act of May 22, 2013, 83rd Legislature, Regular Session, Chapter
2 599, filed in the Office of the Texas Secretary of State;

3 THENCE SOUTH 28 degrees 40 minutes 00 seconds WEST, with said
4 Burnet-Travis County Line, passing at 738.26 feet a found rock
5 mound noted as the 5th mile in the field notes by T. A. Chamberlain
6 recorded under Document Number 50949 of the County Boundary Files
7 for Burnet County in the Archives and Records of the Texas General
8 Land Office, in the vicinity of said rock mound a 1/2 inch capped
9 rebar stamped "Bergman RPLS 3103" lies northwesterly of said
10 Burnet-Travis County Line 2.5 feet, continuing for a total distance
11 of 1591.88 feet to a 1/2 inch capped rebar stamped "JPH LAND
12 SURVEYING" set at the intersection of said Burnet-Travis County
13 Line with a south line of said Hines Tract, from which a 6"x 6" x 44"
14 tall concrete monument marked "T" on the east side, "B" on the west
15 side and "1930" on the base found marking the corner of Burnet and
16 Blanco Counties and on the Travis County line bears SOUTH 28 degrees
17 40 minutes 00 seconds WEST, 1343.39 feet, and from said concrete
18 monument a 14 inch Live Oak Tree bears NORTH 86 degrees WEST, 16.5
19 feet;

20 THENCE the following six (6) calls coincident with the perimeter
21 and to the corners of said Hines Tract:

22 1. SOUTH 88 degrees 48 minutes 34 seconds WEST, 406.38 feet
23 to a found 1/2 inch rebar from which a found 5/8 inch capped rebar
24 stamped "RPLS 453?" bears NORTH 28 degrees WEST, 0.3 feet;

25 2. SOUTH 88 degrees 51 minutes 05 seconds WEST, 283.38 feet
26 to a found 60D nail in top of a 12 inch diameter fence corner post;

27 3. NORTH 01 degree 12 minutes 27 seconds WEST, 475.01 feet

1 to a found cotton gin spindle;

2 4. SOUTH 88 degrees 57 minutes 29 seconds WEST, 1924.98 feet
3 to a set mag nail in rock;

4 5. SOUTH 25 degrees 44 minutes 58 seconds WEST, 532.03 feet
5 to a found 1/2 inch capped rebar stamped "RPLS 4?52";

6 6. SOUTH 06 degrees 38 minutes 28 seconds WEST, 387.56 feet
7 to a set 1/2 inch capped rebar stamped "JPH LAND SURVEYING" set at
8 the intersection of an easterly line of said Hines Tract with the
9 Burnet-Blanco County Line;

10 THENCE NORTH 71 degrees 49 minutes 50 seconds WEST, 2120.42 feet
11 with said Burnet-Blanco County Line to a 1/2 inch capped rebar
12 stamped "JPH LAND SURVEYING" set at the intersection of the east
13 right of way line of State Highway 71 (formerly known as R.M.
14 Highway 93) a 150-foot right of way, as described in the deed to the
15 State of Texas recorded in Volume 98, Pages 530 and 531 of the Deed
16 Records of Burnet County, Texas with said Burnet-Blanco County
17 Line, from which a calculated point being a deed call tie as
18 described in said deed to the State of Texas to said Burnet-Blanco
19 County Line bears NORTH 71 degrees 49 minutes 50 seconds WEST, 148.8
20 feet;

21 THENCE the following four (4) calls coincident with the perimeter
22 and to the corners of the east right of way line of said State
23 Highway 71:

24 1. NORTH 48 degrees 03 minutes 28 seconds WEST, 518.91 feet
25 to a Texas Department of Transportation 4 inch x 4 inch concrete
26 right of way monument found at the beginning of a tangent curve
27 concave to the northeast, having a radius of 2805.00 feet;

1 2. northwesterly an arc length of 1334.88 feet to a Texas
2 Department of Transportation 4 inch x 4 inch concrete right of way
3 monument found at the beginning of a tangent line to the
4 aforementioned curve;

5 3. NORTH 20 degrees 47 minutes 28 seconds WEST, 635.31 feet
6 to a Texas Department of Transportation 4 inch x 4 inch concrete
7 right of way monument found at the beginning of a tangent curve
8 concave to the southwest having a radius of 5790.00 feet;

9 4. northerly an arc length of 596.51 feet to the POINT OF
10 BEGINNING, containing 643.0 acres.

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

18 (b) The governor, one of the required recipients, has
19 submitted the notice and Act to the Texas Commission on
20 Environmental Quality.

21 (c) The Texas Commission on Environmental Quality has filed
22 its recommendations relating to this Act with the governor, the
23 lieutenant governor, and the speaker of the house of
24 representatives within the required time.

25 (d) All requirements of the constitution and laws of this
26 state and the rules and procedures of the legislature with respect
27 to the notice, introduction, and passage of this Act are fulfilled

1 and accomplished.

2 SECTION 4. (a) If this Act does not receive a two-thirds
3 vote of all the members elected to each house, Subchapter C, Chapter
4 7913, Special District Local Laws Code, as added by Section 1 of
5 this Act, is amended by adding Section 7913.107 to read as follows:

6 Sec. 7913.107. NO EMINENT DOMAIN POWER. The district may
7 not exercise the power of eminent domain.

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

11 SECTION 5. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2015.