

By: Kolkhorst

S.B. No. 1002

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Harris County Municipal Utility District No. 540; 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 7910 to read as follows:

CHAPTER 7910. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 540

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7910.001. 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 Harris County Municipal Utility District No. 540.

Sec. 7910.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7910.003. 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. 7910.004. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section 7910.003  
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. 7910.005. 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:

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. 7910.006. 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. 7910.051. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 7910.052, directors serve  
6 staggered four-year terms.

7           Sec. 7910.052. 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 7910.003; 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 7910.003 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 7910.003; 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. 7910.101. 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. 7910.102. 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. 7910.103. AUTHORITY FOR ROAD PROJECTS. Under Section  
18 52, Article III, Texas Constitution, the district may design,  
19 acquire, construct, finance, issue bonds for, improve, operate,  
20 maintain, and convey to this state, a county, or a municipality for  
21 operation and maintenance macadamized, graveled, or paved roads, or  
22 improvements, including storm drainage, in aid of those roads.

23       Sec. 7910.104. ROAD STANDARDS AND REQUIREMENTS. (a) A  
24 road project must meet all applicable construction standards,  
25 zoning and subdivision requirements, and regulations of each  
26 municipality in whose corporate limits or extraterritorial  
27 jurisdiction the road project is located.

1       (b) If a road project is not located in the corporate limits  
2 or extraterritorial jurisdiction of a municipality, the road  
3 project must meet all applicable construction standards,  
4 subdivision requirements, and regulations of each county in which  
5 the road project is located.

6       (c) If the state will maintain and operate the road, the  
7 Texas Transportation Commission must approve the plans and  
8 specifications of the road project.

9       Sec. 7910.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE  
10 OR RESOLUTION. The district shall comply with all applicable  
11 requirements of any ordinance or resolution that is adopted under  
12 Section 54.016 or 54.0165, Water Code, and that consents to the  
13 creation of the district or to the inclusion of land in the  
14 district.

15               SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16       Sec. 7910.151. ELECTIONS REGARDING TAXES OR BONDS.

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

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

20               (2) contract payments described by Section 7910.153.

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

25       (c) The district may not issue bonds payable from ad valorem  
26 taxes to finance a road project unless the issuance is approved by a  
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 7910.152. OPERATION AND MAINTENANCE TAX. (a) If  
3 authorized at an election held under Section 7910.151, 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. 7910.153. 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. 7910.201. 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. 7910.202. 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 Sec. 7910.203. BONDS FOR ROAD PROJECTS. At the time of  
4 issuance, the total principal amount of bonds or other obligations  
5 issued or incurred to finance road projects and payable from ad  
6 valorem taxes may not exceed one-fourth of the assessed value of the  
7 real property in the district.

8 SECTION 2. The Harris County Municipal Utility District No.  
9 540 initially includes all the territory contained in the following  
10 area:

11 TRACT 1

12 BEING 159.65 acres of land situated in the H. & T. C. R. R. Co.  
13 Survey, Section 47, Block 2, Abstract Number 440, Harris County,  
14 Texas, being all of that certain called 159.6531 acres conveyed to  
15 Cunningham Interests, II, Ltd by deed recorded under Harris County  
16 Clerk's File Number (H.C.C.F. No.) 20110175218, said 159.65 acre  
17 tract being more particularly described by metes and bounds as  
18 follows:

19 BEGINNING at a MAG Nail with shiner stamped "COSTELLO" found  
20 for the Southeast corner of said 159.6531 acre tract and being in  
21 the pavement of Stockdick School Road (width unknown) also being in  
22 the centerline of Peek road (60-foot wide) as referenced in Volume  
23 996, Page 491 of the Harris County Deed Records;

24 THENCE, S 87° 58' 23" W, a distance of 2,582.65 feet along  
25 said Stockdick Road to the Southwest corner of said 159.6531 acre  
26 tract;

27 THENCE, along the lines common to said 159.6531 acre tract

1 and the remainder of a called 160 acre tract described in Volume  
2 1494, Page 230 of the Harris County Deed Records the following two  
3 (2) courses and distances:

4           N 04° 45' 03" W, a distance of 309.54 feet to a 5/8-inch  
5           iron rod with cap stamped "COSTELLO INC. RPLS 4416" found for  
6           an interior ell corner of said 159.6531 acre tract;

7           S 88° 22' 39" W, a distance of 42.85 feet to the  
8           Northeast corner of a called 3.00 acre tract described and  
9           recorded under H.C.C.F. No. D978707 from which a found  
10          5/8-inch iron rod with cap stamped "COSTELLO INC. RPLS 4416"  
11          bears N 84° 28' W, 0.37 feet, also being the Southeast corner  
12          of a called 158.33 acre tract described and recorded under  
13          H.C.C.F. No. 20130266472;

14          THENCE, N 02° 04' 00" W, a distance of 2,330.87 feet along the  
15          line common to said 158.33 acre tract and said 159.6531 acre tract  
16          to the northern corner common to said 159.6531 acre tract and said  
17          158.33 acre tract from which a found 5/8-inch iron rod with cap  
18          stamped "COSTELLO INC. RPLS 4416" bears S 89° 21' W, 3.45 feet also  
19          being the Southwest corner of a called 156.432 acre tract described  
20          and recorded under H.C.C.F. No. V829107;

21          THENCE, N 87° 59' 16" E, a distance of 2,640.00 feet along the  
22          North line of said 159.6531 acre tract and the South lines of said  
23          156.432 acre tract and a called 9.7770 acre tract described and  
24          recorded under H.C.C.F. No. G578991 to the Northeast corner of said  
25          159.6531 acre tract and the herein described tract from which a  
26          found Nail with shiner stamped "COSTELLO" bears N 82° 39' W, 3.01  
27          feet;



1           THENCE, S 02° 04' 00" E, a distance of 2,639.69 feet along and  
2 with the centerline of said Peek Road to the POINT OF BEGINNING and  
3 containing 159.65 acres of land. Bearing orientation is based on  
4 the Texas Coordinate System South Central Zone 4204, NAD83.

5           TRACT 2

6           BEING 247.03 acres of land situated in the George Spencer  
7 Survey, Abstract Number 1369 and the M. M. Willsey Survey, Abstract  
8 Number 1459 of the H. & T. C. R. R. Co. Survey, Block 2, Harris  
9 County, Texas, being all of that certain called 235.55 acres  
10 conveyed to Cunningham Interests, II, Ltd by deed recorded under  
11 Harris County Clerk's File Number (H.C.C.F. No.) 20120237422 and  
12 all of that certain called 11.526 acres conveyed to Cunningham  
13 Interests, II, Ltd by deed recorded under H.C.C.F. No. 20140170048,  
14 said 247.03 acre tract being more particularly described by metes  
15 and bounds as follows:

16           BEGINNING at a 5/8-inch iron rod with aluminum Texas  
17 Department of Transportation (TxDot) cap found for the Southeast  
18 corner of said 235.55 acre tract and being in the North right-of-way  
19 line of Stockdick School Road (60-foot with, no deed found) also  
20 being the West right-of-way line of said Stockdick Road (width  
21 varies, no deed found);

22           THENCE, S 87° 56' 23" W, a distance of 3,929.03 feet along the  
23 North right-of-way line of said Stockdick School Road to a 5/8-inch  
24 iron rod found for the Southeast corner of a called 17.00 acre tract  
25 described and recorded under H.C.C.F. No. V330498 and the Southwest  
26 corner of said 235.55 acre tract and the herein described tract;

27           THENCE, N 01° 59' 51" W, a distance of 851.43 feet along the

1 line common to said 17.00 acre tract and said 235.55 acre tract to  
2 the Northeast corner of said 17.00 acre tract and being the  
3 Southeast corner of said 11.526 acre tract and from which a 1/2-inch  
4 iron rod found bears S 87° 57' W, 4.59 feet;

5       THENCE, S 87° 57' 20" W, a distance of 378.38 feet along the  
6 line common to said 17.00 acre tract and said 11.526 acre tract to  
7 the Southwest corner of said 11.526 acre tract and the southeast  
8 corner of a called 11.653 acre tract described and recorded under  
9 H.C.C.F. No. Y103912, said point being in the centerline of South  
10 Mayde Creek;

11       THENCE, along and with the centerline of South Mayde Creek,  
12 same being the line common to said 11.526 acre tract and said 11.653  
13 acre tract the following sixteen (16) courses and distances:

- 14           N 57° 32' 53" W, 185.76 feet to an angle point;
- 15           N 76° 58' 36" W, 5.99 feet to an angle point;
- 16           N 73° 39' 37" W, 44.16 feet to an angle point;
- 17           N 27° 46' 16" W, 24.43 feet to an angle point;
- 18           N 18° 48' 22" E, 80.98 feet to an angle point;
- 19           N 21° 42' 27" E, 261.01 feet to an angle point;
- 20           N 15° 34' 29" E, 88.96 feet to an angle point;
- 21           N 22° 02' 24" W, 81.87 feet to an angle point;
- 22           N 32° 50' 40" E, 34.54 feet to an angle point;
- 23           N 21° 18' 18" W, 20.21 feet to an angle point;
- 24           N 53° 13' 23" W, 47.36 feet to an angle point;
- 25           N 85° 03' 23" W, 176.78 feet to an angle point;
- 26           S 70° 36' 55" W, 107.89 feet to an angle point;
- 27           N 73° 03' 25" W, 44.61 feet to an angle point;

1           N 40° 29' 03" W, 186.40 feet to an angle point;  
2           N 55° 40' 31" W, 60.60 feet to the most westerly  
3 Northwest corner of the herein described tract and being in  
4 the South line of a called 25.8950 acre tract described and  
5 recorded under H.C.C.F. No. 20100452700;  
6           THENCE, N 88° 03' 56" E, a distance of 966.73 feet along the  
7 line common to said 25.8950 acre tract and said 11.256 acre tract to  
8 the Northeast corner of said 11.256 acre tract and the Southeast  
9 corner of said 25.8950 acre tract, being in the West line of said  
10 235.55 acre tract and from which a found 3/8-inch iron rod bears S  
11 87° 47' W, 6.77 feet;  
12           THENCE, N 01° 59' 51" W, a distance of 882.01 feet along the  
13 line common to said 235.55 acre tract and said 25.8950 acre tract to  
14 the Northeast corner of said 25.8950 acre tract and the Northwest  
15 corner of said 235.55 acre tract, being in the South line of a  
16 called 7.016 acre tract described and recorded under H.C.C.F.  
17 No. Y680341 and from which a found 3/8-inch iron rod bears S 83° 44'  
18 W, 9.92 feet;  
19           THENCE, N 87° 58' 30" E, a distance of 3,073.16 feet along the  
20 North line of said 235.55 acre tract and South lines of said 7.016  
21 acre tract and a called 5.8806 acre tract described and recorded  
22 under H.C.C.F. No. X209587 also the South lines of Lot 61 through  
23 Lot 76 of Katy Country Estates, an unrecorded subdivision to a  
24 concrete monument found for the southeast corner of said Lot 76 and  
25 the Southwest corner of a called 19.3136 acre tract described and  
26 recorded under H.C.C.F. No. X407934;  
27           THENCE, N 87° 46' 36" E, a distance of 852.54 feet continuing

1 along the North line of said 235.55 acre tract and South line of  
2 said 19.3136 acre tract to a 3/8-inch iron rod found for the  
3 Northeast corner of said 235.55 acre tract and the herein described  
4 tract and the Southeast corner of said 19.3136 acre tract, said iron  
5 rod being in the West right-of-way line of said Stockdick Road;

6       THENCE, S 02° 04' 14" E, a distance of 2,614.01 feet along said  
7 West right-of-way line to the POINT OF BEGINNING and containing  
8 247.03 acres of land. Bearing orientation is based on the Texas  
9 Coordinate System South Central Zone 4204, NAD83.

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

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

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

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

1           SECTION 4. (a) If this Act does not receive a two-thirds  
2 vote of all the members elected to each house, Subchapter C, Chapter  
3 7910, Special District Local Laws Code, as added by Section 1 of  
4 this Act, is amended by adding Section 7910.106 to read as follows:

5           Sec. 7910.106. NO EMINENT DOMAIN POWER. The district may  
6 not exercise the power of eminent domain.

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

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