

House Bill 4158
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3937 to read as follows:

CHAPTER 3937. EAST WALLER COUNTY
MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3937.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "County" means Waller County.
- (3) "Director" means a board member.
- (4) "District" means the East Waller County Management District.

Sec. 3937.002. CREATION AND NATURE OF DISTRICT.
The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3937.003. 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, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

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

(c) The district is created to supplement and not to supplant county services provided in the district.

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Sec. 3937.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

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

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment;

(3) developing or expanding transportation and commerce; and

(4) providing quality residential housing.

(d) The district will:

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

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

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

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, vehicle parking, and street art objects are parts of

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and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3937.005. DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1) organization, existence, or validity;

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

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3937.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3937.007. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3937.051. GOVERNING BODY; TERMS. The district

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is governed by a board of five voting directors who serve staggered terms of four years with two or three directors' terms expiring June 1 of each odd-numbered year.

Sec. 3937.052. QUALIFICATIONS OF DIRECTORS APPOINTED BY COUNTY. To be qualified to serve as a director appointed by the governing body of the county, a person must be:

- (1) a resident of the district who is also a registered voter of the district;
- (2) an owner of property in the district;
- (3) an owner of stock or a partnership or membership interest, whether beneficial or otherwise, of a corporate partnership, limited liability company, or other entity owner of a direct or indirect interest in property in the district;
- (4) an owner of a beneficial interest in a trust, or a trustee in a trust, that directly or indirectly owns property in the district;
- (5) an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4);
- (6) a resident of Waller County; or
- (7) an initial director.

Sec. 3937.053. APPOINTMENT OF DIRECTORS. The governing body of the county shall appoint directors from persons recommended by the board.

Sec. 3937.054. VACANCY. If a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

Sec. 3937.055. DIRECTOR'S OATH OR AFFIRMATION.
(a) A director shall file the director's oath or affirmation of

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(b) A director shall file a copy of the director's oath or affirmation with the clerk of the county.

Sec. 3937.056. QUORUM. A vacant director position is not counted for purposes of establishing a quorum.

Sec. 3937.057. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary. The offices of chair and secretary may not be held by the same person.

Sec. 3937.058. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$50 for each board meeting. The total amount of compensation a director may receive each year may not exceed \$2,000.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 3937.059. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures a director against personal liability and from all claims relating to:

- (1) actions taken by the director in the director's capacity as a member of the board;
- (2) actions and activities taken by the district; or
- (3) the actions of others acting on behalf of the district.

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Sec. 3937.060. NO EXECUTIVE COMMITTEE. The board may not create an executive committee to exercise the powers of the board.

Sec. 3937.061. BOARD MEETINGS. The board shall hold meetings at a place accessible to the public.

Sec. 3937.062. INITIAL DIRECTORS. (a) The initial board consists of:

Pos. No.Name of Director

1Kelly Moore

2Frank Heuszel

3Jeff Gobles

4Elli Hinson

5Bob Malquest

(b) The terms of the initial directors expire June 1, 2017.

(c) Of the directors who replace an initial director, the terms of directors serving in positions 1 through 3 expire June 1, 2019, and the terms of directors serving in positions 4 and 5 expire June 1, 2021.

(d) Section 3937.052 does not apply to initial directors under this section.

(e) This section expires September 1, 2021.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3937.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3937.102. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an

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improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3937.103. LOCATION OF IMPROVEMENT PROJECT. An improvement project described by Section 3937.102 may be located:

- (1) in the district; or
- (2) in an area outside but adjacent to the district if the project is for the purpose of extending a public infrastructure improvement beyond the district's boundaries to a logical terminus.

Sec. 3937.104. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3937.105. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

- (1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and
- (2) may implement any project and provide any service

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authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3937.106. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3937.107. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including the county, to provide law enforcement services in the district for a fee.

Sec. 3937.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3937.109. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or

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local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

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

- (1) Chapter 380, Local Government Code, provides to a municipality; and
- (2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3937.110. REAL PROPERTY RESTRICTIONS. (a) The district may adopt restrictions on the use of real property in the district.

(b) The district may enforce restrictions on the use of real property in the district in the manner provided for a municipal utility district by Section 54.237, Water Code.

Sec. 3937.111. DESIGNATION OF SPECIAL ZONES. (a) The district may designate all or any part of the area of the district, as if the district were a municipality, as:

- (1) a tax increment reinvestment zone under Chapter 311, Tax Code;
- (2) a tax abatement reinvestment zone under Chapter 312, Tax Code; or
- (3) an industrial district under Chapter 42, Local Government Code.

(b) Section 311.006(b), Tax Code, does not apply to a tax increment reinvestment zone created by the district.

(c) The district may submit to the Texas Economic Development Bank a request for designation of a project or activity in the district as an enterprise project in the manner

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provided for a municipality to submit a request under Chapter 2303, Government Code.

(d) If the county creates a tax increment reinvestment zone under Chapter 311, Tax Code, the county, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code, including the right to pledge the money as security for any bonds issued by the district for an improvement project.

Sec. 3937.112. CONCURRENCE ON ADDITIONAL POWERS. If the territory of the district is located in the corporate boundaries or the extraterritorial jurisdiction of a municipality, the district may not exercise a power granted to the district after the date the district was created unless the governing body of the municipality by resolution consents to the district's exercise of the power.

Sec. 3937.113. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3937.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3937.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain an improvement project or service

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authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3937.153. GENERAL POWERS REGARDING PAYMENT OF DISTRICT BONDS, OBLIGATIONS, OR OTHER COSTS. The district may provide or secure the payment or repayment of any bond, note, or other temporary or permanent obligation or reimbursement or other contract with any person and the costs and expenses of the establishment, administration, and operation of the district and the district's costs or share of the costs or revenue of an improvement project or district contractual obligation or indebtedness by:

- (1) the imposition of an ad valorem tax or sales and use tax or an assessment, user fee, concession fee, or rental charge; or
- (2) any other revenue or resources of the district, including revenues from a tax increment reinvestment zone.

Sec. 3937.154. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

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

Sec. 3937.155. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class

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No equivalent provision. [Deleted by FA1]

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United States mail.

Sec. 3937.156. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

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

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

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

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

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

Sec. 3937.157. STORM WATER USER CHARGES. The district may establish user charges related to the operation of storm water facilities, including the regulation of storm water

Sec. 3937.156. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

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

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

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

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

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

Sec. 3937.157. STORM WATER USER CHARGES. The district may establish user charges related to the operation of storm water facilities, including the regulation of storm water

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for the protection of water quality in the district.

Sec. 3937.158. NONPOTABLE WATER USER CHARGES. The district may establish user charges for the use of nonpotable water for irrigation purposes, subject to approval of the governing body of the county.

Sec. 3937.159. COSTS FOR IMPROVEMENT PROJECTS. The district may undertake separately or jointly with other persons, including the county, all or part of the cost of an improvement project, including an improvement project:
(1) for improving, enhancing, and supporting public safety and security, fire protection and emergency medical services, and law enforcement in or adjacent to the district; or
(2) that confers a general benefit on the entire district or a special benefit on a definable part of the district.

Sec. 3937.160. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of a tax or assessment on property in the zones.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3937.201. TAX ABATEMENT. The district may enter into a tax abatement agreement in accordance with the general laws of this state authorizing and applicable to a tax abatement agreement by a municipality.

Sec. 3937.202. PROPERTY TAX AUTHORIZED. (a) The district may impose an ad valorem tax on all taxable property in the district to:
(1) pay for an improvement project of the types authorized by Section 52(b), Article III, and Section 59, Article XVI, Texas

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Constitution; or

(2) secure the payment of bonds issued for a purpose described by Subdivision (1).

(b) The district may not impose an ad valorem tax to pay for an improvement project under this chapter unless the imposition is approved by the voters of the district voting at an election held for that purpose. The board may call an election to approve the imposition of an ad valorem tax to pay for an improvement project under this chapter only if the board receives a petition requesting the election signed by:

(1) more than 51 percent of the record owners of real property in the district subject to taxation; or

(2) owners representing more than 51 percent of the appraised value of real property in the district subject to taxation, as determined by the tax rolls of the appraisal district.

Sec. 3937.203. SALES AND USE TAX. (a) The district may impose a sales and use tax if authorized by a majority of the voters of the district voting at an election called for that purpose. Revenue from the tax may be used for any purpose for which ad valorem tax revenue of the district may be used.

(b) The district may not adopt a sales and use tax if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district.

(c) If the voters of the district approve the adoption of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves an increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having

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Constitution; or

(2) secure the payment of bonds issued for a purpose described by Subdivision (1).

(b) The district may not impose an ad valorem tax to pay for an improvement project under this chapter unless the imposition is approved by the voters of the district voting at an election held for that purpose. The board may call an election to approve the imposition of an ad valorem tax to pay for an improvement project under this chapter only if the board receives a petition requesting the election signed by:

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territory in the district would exceed two percent at any location in the district, the election to adopt a sales and use tax under this chapter has no effect.

Sec. 3937.204. BONDS AND OTHER OBLIGATIONS. (a) The district may issue, by public or private sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, sales and use taxes, or assessments in the manner provided by Subchapter J, Chapter 375, Local Government Code.

(b) If the territory of the district is not located in the corporate boundaries or extraterritorial jurisdiction of a municipality, the district is not required to comply with Section 375.207, Local Government Code, and may issue a bond or other obligation under Subchapter J, Chapter 375, Local Government Code, with the written consent of directors, as provided by Section 375.071, Local Government Code.

(c) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(d) In addition to the sources of money described by Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from improvement revenue or from any other source.

Sec. 3937.205. BOND MATURITY. Bonds may mature not more than 40 years from their date of issue.

Sec. 3937.206. TAXES FOR BONDS AND OTHER

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territory in the district would exceed two percent at any location in the district, the election to adopt a sales and use tax under this chapter has no effect.

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Sec. 3937.206. TAXES FOR BONDS AND OTHER

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OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due; and

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date.

SUBCHAPTER F. DISSOLUTION

Sec. 3937.251. DISSOLUTION BY ORDINANCE. (a) A municipality that includes territory of the district, in the corporate boundaries or extraterritorial jurisdiction of the municipality, by ordinance may dissolve the district.

(b) The municipality may not dissolve the district until the district's outstanding debt or contractual obligations that are payable from ad valorem taxes have been repaid or discharged, or the municipality has affirmatively assumed the obligation to pay the outstanding debt from municipal revenue.

Sec. 3937.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than ad valorem taxes, the municipality that dissolves the district shall succeed to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

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OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax for each year that all or part of the bonds are outstanding; and

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(b) The municipality shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

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

(2) special revenue or assessment bonds or other obligations issued by the municipality to refund the outstanding bonds or obligations.

Sec. 3937.253. ASSUMPTION OF ASSETS AND LIABILITIES. (a) If a municipality dissolves the district, the municipality assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If a municipality dissolves the district, the board shall transfer ownership of all district property to the municipality.

SECTION 2. The East Waller County Management District initially includes all the territory contained in the following area:

Tract 1 is +/- 628 acres within the H. & T.C.R.R.CO. Survey Abstract (No. 173 Sec. 113) and situated northeast of intersection of Farm-to-Market Road 529 (Freeman Road) and FM Road 2855 North (Morrison Road) in southeast Waller County with point of beginning being northwest corner of 10 acre tract (ABS A317300 A-173 H & T C R R CO TRACT 2) and east Right-Of-Way (ROW) of FM Road 2855 North (Morrison Road);

Then north along east ROW of FM Road 2855 North (Morrison Road) and west boundary of +/-628 tract (ABS

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(b) The municipality shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

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

(2) special revenue or assessment bonds or other obligations issued by the municipality to refund the outstanding bonds or obligations.

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(b) If a municipality dissolves the district, the board shall transfer ownership of all district property to the municipality.

SECTION 2. Same as House version.

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A317300 A-173 H & T C R R CO TRACT 1 ACRES 627.979 P/O 628.479 AC) to northwest corner of said tract;
Then east along north boundary of said +/- 628 acre tract to northeast corner of said tract;
Then south along east boundary of said +/- 628 tract to southeast corner of said tract and north ROW of FM 529 (Freeman Road);
Then west along south boundary of said +/- 628 acre tract and north ROW of FM 529 (Freeman Road) to corner of said tract and southeast corner of 10 acre tract (ABS A317300 A-173 H & T C R R CO TRACT 2);
Then north along east boundary of said 10 acre tract to northeast corner of said tract;
Then west along north boundary of said 10 acre tract to northwest corner of said tract and east ROW of FM Road 2855 North (Morrison Road) and point of beginning of +/-628 acre tract;

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

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

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of

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SECTION 3. Same as House version.

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representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

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SECTION 4. Same as House version.

CONFERENCE