By: Bailes H.B. No. 4334

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Liberty County Municipal Utility District No. 1; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, or 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 8010 to read as follows:

CHAPTER 8010. LIBERTY COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8010.001. 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 Liberty County Municipal Utility District No. 1.

Sec. 8010.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8010.003. 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.

Sec. 8010.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8010.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8010.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

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

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

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

Sec. 8010.006. INITIAL 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 made 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 a tax; or

(4) legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8010.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8010.053, directors serve staggered four-year terms.

Sec. 8010.052. QUALIFICATIONS. Except for temporary directors appointed under Sections 8010.053(a)(1)-(3), to be qualified to serve as a director a person must meet the requirements of Section 54.102, Water Code.

Sec. 8010.053. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) two directors appointed by the Liberty County Commissioners Court;

(2) two directors appointed by the Cleveland Independent School District; and

(3) one director appointed by the landowner of a majority of the assessed real property in the district.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8010.003; or

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

(c) If permanent directors have not been elected under Section 8010.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that

expire on the earlier of:

(1) the date permanent directors are elected under Section 8010.003; or

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

(d) If Subsection (c) applies, the temporary directors shall recommend to the commission persons to serve as successor temporary directors. After reviewing the recommendations, the commission shall approve or disapprove the successor temporary directors. If the commission is not satisfied with the recommendations, the commission may request additional recommendations. On request by the commission, the temporary directors shall submit additional recommendations.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8010.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8010.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8010.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or

improvements, including storm drainage, in aid of those roads.

Sec. 8010.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

Sec. 8010.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8010.106. ZONING. The district may regulate:

(1) the height, number of stories, materials, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density; and

(5) the location and use of buildings, other

structures, and land for business, industrial, residential, or other purposes.

Sec. 8010.107. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if:

(1) the district has no outstanding bonded debt; and

(2) the district is not imposing ad valorem taxes.

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

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

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

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 8010.003 to confirm the creation of the district.

(f) An order dividing the district shall:

(1) name each new district;

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

(3) appoint temporary directors for each new district; and

(4) provide for the division of assets and liabilities

between or among the new districts.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8010.003.

(i) If the creation of the new district is confirmed, the new district shall provide the election date and results to the commission.

(j) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(k) Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 8010.004 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8010.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8010.153.

(b) The district must hold an election in the manner

provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

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

(d) Before the district may issue bonds, the district must enter into an agreement with the developer, the Cleveland Independent School District, and Liberty County for the transfer of land for use as the sites of facilities for the school district and for emergency services.

Sec. 8010.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8010.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 8010.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8010.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8010.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8010.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

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

A subdivision of 1,329.763 acres of land, being a portion of a called 4,394.368 acre tract located in the James T. Dunman Survey, Abstract No. 167, W. McWilkinson Survey, Abstract No. 317, H.T. & B. R.R. Co. Survey, Abstract No. 443, Liberty County, Texas, designated as Santa Fe Subdivision, Section One, Save and Except Reserves A thru S of Santa Fe, Subdivision, Section One, a plat of

said subdivision recorded under Liberty County Clerk's File Number 2017-005075, of the Official Public Records of Liberty County, Texas; and

Being 3,064.605 acres of land, being a portion of a called 4,394.368 acre tract located in the James T. Dunman Survey, Abstract No. 167, H.T. & B. R.R. Co. Survey, Abstract No. 443, H.T. & B. R.R. Co. Survey, Abstract No. 635, W. McWilkinson Survey, Abstract No. 317, Charles Smith Survey, Abstract No. 350, B.B.B. & C. Survey, Abstract No. 152, William H.B. Witham Survey, Abstract No. 395, and the James Darwin Survey, Abstract No. 176, Liberty County, Texas, a Deed as recorded under Liberty County Clerk's File Number 2016-013974, of the Official Public Records of Liberty County, Texas.

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, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) 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 are fulfilled and accomplished.

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8010, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8010.108 to read as follows:

Sec. 8010.108. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

SECTION 5. 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, 2017.