

By: Zaffirini

S.B. No. 2296

A BILL TO BE ENTITLED

AN ACT

relating to the temporary board of and financing of certain facilities and improvements by the LaSalle Municipal Utility District No. 2; providing authority to impose an assessment.

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

SECTION 1. Sections 8473.052(a) and (b), Special District Local Laws Code, are amended to read as follows:

(a) The temporary board consists of:

(1) Kevin Bales;

(2) Tol S. Higginbotham IV;

(3) Mark Baldwin;

(4) Brannin Prideaux; and

(5) Chris Synan ~~[On or after the effective date of the~~

~~Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition].~~

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8473.003; or

(2) the fourth anniversary of the effective date of their designation ~~[the Act enacting this chapter].~~

SECTION 2. Chapter 8473, Special District Local Laws Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ASSESSMENTS; APPLICABILITY OF ASSESSMENTS

Sec. 8473.251. PETITION REQUIRED FOR FINANCING IMPROVEMENTS AND RECREATIONAL FACILITIES WITH ASSESSMENTS. (a) Except as provided by this subchapter, the board may finance the construction or maintenance of a recreational facility or improvement with assessments on property under this subchapter only if:

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

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

(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. 8473.252. MISCELLANEOUS DESIGN, CONSTRUCTION, AND MAINTENANCE. An improvement or recreational facility project may include the planning, design, construction, improvement, and maintenance of:

(1) landscaping;

(2) marinas and bridges;

(3) lighting, banners, and signs;

(4) hiking and cycling paths or trails;

(5) sidewalks, pedestrian walkways, skywalks, crosswalks, or tunnels;

1 (6) ponds, lakes, recreational facilities, or scenic
2 areas;
3 (7) plazas or pedestrian malls;
4 (8) drainage or navigation improvements; or
5 (9) solid waste, water, sewer, or power facilities,
6 including electrical and gas power facilities.

7 Sec. 8473.253. METHOD OF NOTICE FOR HEARING. The district
8 shall mail notice of the hearing to each property owner in the
9 district who will be subject to the assessment at the current
10 address to be assessed as reflected on the tax rolls. The district
11 may mail the notice by certified or first class United States mail.
12 The board shall determine the method of notice.

13 Sec. 8473.254. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) An
14 assessment or a reassessment imposed under this subchapter by the
15 district, penalties and interest on an assessment or reassessment,
16 an expense of collection, and reasonable attorney's fees incurred
17 by the district:

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

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

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

26 (b) The lien is effective from the date of the board's
27 resolution imposing the assessment until the date the assessment is

1 paid. The board may enforce the lien in the same manner that the
2 board may enforce an ad valorem tax lien against real property.

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

7 Sec. 8473.255. UTILITY PROPERTY EXEMPT FROM ASSESSMENTS.
8 The district may not impose an assessment on the property,
9 including the equipment, rights-of-way, facilities, or
10 improvements, of:

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

13 (2) a gas utility as defined by Section 101.003 or
14 121.001, Utilities Code;

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

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

19 SECTION 3. Section 2, Chapter 626, Acts of the 83rd
20 Legislature, Regular Session, 2013, is amended to read as follows:

21 Sec. 2. The LaSalle Municipal Utility District No. 2
22 initially includes all the territory contained in the following
23 area:

24 BEING TWO PARTS TOTALLING 389.6 ACRES: PART 1, A 206.1-ACRE
25 [8,978,157 SQUARE FEET] TRACT OF LAND AND PART 2, A 183.5-ACRE
26 [7,994,178 SQUARE FEET] TRACT OF LAND OUT OF THE WILLIAM HEMPHILL
27 SURVEY, ABSTRACT NUMBER 221, HAYS COUNTY, TEXAS, SAID 206.1-ACRE

TRACT AND SAID 183.5-ACRE TRACT BEING PORTIONS OF SAID 765.035-ACRE TRACT, SAID 206.1-ACRE TRACT AND SAID 183.5-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

PART 1:

BEGINNING at a 1/2-inch iron rod found in the apparent west right-of-way line of County Road 158 (no record information found) for the southeast corner of the northerly portion of said 765.035-acre tract and southeast corner of the tract described herein;

THENCE with said apparent west right-of-way line of County Road 158, same being the southeast line of said northerly portion of the 765.035-acre tract, the following three (3) courses and distances:

1) S42°49'29"W, a distance of 1,989.07 feet to a 1/2-inch iron rod with cap marked "BYRN" found for an angle point,

2) S42°48'42"W, a distance of 365.86 feet to a 1/2-inch iron rod with cap marked "BYRN" found for an angle point, and

3) S42°49'22"W, a distance of 1,989.07 feet to an angle point for the south corner of the tract described herein;

THENCE leaving said apparent west right-of-way line of County Road 158 and said southeast line of the northerly portion of the 765.035-acre tract, crossing said northerly portion of the 765.035-acre tract, the following eight (8) courses and distances:

1) N45°37'13"W, a distance of 1,831.04 feet to the west corner of the tract described herein,

2) N22°07'52"E, a distance of 804.54 feet to a point of curvature of a tangent circular curve to the left,

1 3) with the arc of said curve to the left a distance of
2 314.79 feet, said curve having a radius of 1000.00, a central angle
3 of 18°02'10" and a chord bearing N13°06'47"E, a distance of 313.49
4 feet to a point of tangency,

5 4) N06°46'34"E, a distance 123.00 feet to a point of
6 curvature of a tangent circular curve to the right;

7 5) with the arc of said curve to the right a distance of
8 1,807.51 feet, said curve having a radius of 1,738.00, a central
9 angle of 59°35'14" and a chord bearing N36°34'11"E, a distance of
10 1,727.15 feet to a point of tangency,

11 6) N67°06'07"E, a distance of 20.00 feet to a point of
12 curvature of a tangent circular curve to the left,

13 7) with the arc of said curve to the left a distance of
14 372.28 feet, said curve having a radius of 1,000.00, a central angle
15 of 21°19'49" and a chord bearing N56°26'13"E, a distance of 370.14
16 feet to a point of tangency, and

17 8) N43°33'39"E, a distance of 551.53 feet to a point in said
18 apparent west right-of-way line of County Road 158, same being the
19 northeast line of said northerly portion of the 765.035-acre tract;

20 THENCE with said apparent west right-of-way line of County
21 Road 158 and said northeast line of the northerly portion of the
22 765.035-acre tract, the following four (4) courses and distances:

23 1) S46°10'38"E, a distance of 1,429.22 feet to a 1/2-inch
24 iron rod found for an angle point,

25 2) S28°54'35"E, a distance of 181.07 feet to a 1/2-inch iron
26 rod found for an angle point,

27 3) S46°09'48"E, a distance of 787.55 feet to a 1/2-inch iron

rod found for an angle point, and

4) S01°21'32"E, a distance of 56.98 feet to said POINT OF BEGINNING of PART 1, and containing 206.1 acres [8,978,157 square feet].

PART 2:

BEGINNING at a 1/2-inch iron rod with cap marked "BYRN" found in the apparent east right-of-way line of said County Road 158 for the northwest corner of the southerly portion of said 765.035-acre tract, same being the west corner of that called 1.00-acre tract described to Drue B. Ewald and wife, Alice H. Ewald, as recorded in Volume 269, Page 202 of the Hays County Deed Records [H.C.D.R.], and the northwest corner of the tract described herein, and from which said 1/2-iron rod found for the point of beginning of Part 1 bears N47°10'31"W, a distance of 47.12 feet and N42°49'29"E, a distance of 134.89 feet;

THENCE with the southwest line of said 1.00-acre tract, same being the north line of said southerly portion of the 765.035-acre tract, S45°26'51"E, a distance of 221.84 feet to a 1/2-inch iron rod found for an angle point;

THENCE with the southeast line of said 1.00-acre tract, continuing with the north line of said southerly portion of the 765.035-acre tract, N43°57'39"E, a distance of 198.71 feet to a 1/2-inch iron rod found in the east line of said 765.035-acre tract, same being the southwest line of that called 140.6-acre tract described in Special Warranty Deed to Cynthia G. Meyer, as recorded in Volume 1769, Page 435, O.P.R.H.C.T., said 140.6-acre tract being further described in Volume 205, Page 109, H.C.D.R.;

1 THENCE with said east line of the 765.035-acre tract and said
2 southwest line of the 140.6-acre tract, S46°43'06"E, a distance of
3 2,436.01 feet to the east corner of the tract described herein;

4 THENCE leaving said east line of the 765.035-acre tract and
5 said southwest line of the 140.6-acre tract, crossing said
6 765.035-acre tract, the following ten (10) courses and distances:

7 1) S43°22'06"W, a distance of 190.43 feet to a point of
8 curvature of a tangent circular curve to the left,

9 2) with the arc of said curve to the left a distance of
10 793.02 feet, said curve having a radius of 632.00, a central angle
11 of 71°53'37" and a chord bearing S10°26'48"W, a distance of 742.01
12 feet to a point of tangency,

13 3) S24°53'03"E, a distance of 156.83 feet to a point of
14 curvature of a tangent circular curve to the right,

15 4) with the arc of said curve to the right a distance of
16 595.11 feet, said curve having a radius of 512.00, a central angle
17 of 66°35'45" and a chord bearing S10°17'36"W, a distance of 562.17
18 feet to a point of tangency,

19 5) S43°35'28"W, a distance of 248.47 feet to an angle point
20 for the southeast corner of the tract described herein,

21 6) N46°24'32"W a distance of 792.11' to a point of curvature
22 of a tangent circular curve to the left,

23 7) with the arc of said curve to the left a distance of
24 2,394.53 feet, said curve having a radius of 1,654.00 feet, a
25 central angle of 82°56'54" and a chord bearing S86°50'23"W, a
26 distance of 2,190.83 feet to a point of tangency,

27 8) S44°18'44"W, a distance of 586.71' to an angle point for

1 the southwest corner of the tract described herein,

2 9) N46°24'34"W, a distance of 233.22 feet to an angle point,
3 and

4 10) N45°40'51"W, a distance of 942.00' feet to a point in
5 said apparent east right-of-way line of County Road 158, same being
6 the north line of said southerly portion of the 765.035-acre tract,
7 for the west corner of the tract described herein;

8 THENCE with said apparent east right-of-way line of County
9 Road 158 and said north line of the southerly portion of the
10 765.035-acre tract, the following three (3) courses and distances:

11 1) N42°52'47"E, a distance of 517.38 feet to a 1/2-inch iron
12 rod with cap marked "BYRN" found for an angle point;

13 2) N42°49'25"E, a distance of 1,527.56 feet to an angle
14 point, and

15 3) N43°05'04"E, a distance of 1505.23 feet to the POINT OF
16 BEGINNING of PART 2, and containing 183.5 acres [7,994,178 square
17 feet].

18 ~~[FIELD NOTE DESCRIPTION OF 305.41 ACRES OF LAND OUT OF THE WILLIAM~~
19 ~~HEMPHILL SURVEY ABSTRACT No. 221 IN HAYS COUNTY, TEXAS, BEING A~~
20 ~~PORTION OF THAT CERTAIN (765.035 ACRE) TRACT OF LAND AS CONVEYED TO~~
21 ~~LASALLE HOLDINGS, LTD. BY SPECIAL WARRANTY DEED RECORDED IN VOLUME~~
22 ~~2909 PAGE 684 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS,~~
23 ~~AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS~~
24 ~~FOLLOWS:~~

25 ~~[BEGINNING at a 1/2" iron rod found in the Southwest line of Hays~~
26 ~~County Road No. 158 and for an angle corner in the Northeast line of~~
27 ~~that certain (765.035 acre) tract of land as conveyed to LaSalle~~

1 ~~Holdings, Ltd. by Special Warranty Deed recorded in Volume 2909~~
2 ~~Page 684 of the Official Public Records of Hays County, Texas, and~~
3 ~~being the most Northerly corner and PLACE OF BEGINNING of the herein~~
4 ~~described tract of land, and from which a capped iron rod found~~
5 ~~(marked "Byrn") for an angle corner in the Northeast line of said~~
6 ~~LaSalle Holdings (765.035 acre) tract bears N 44 deg. 12' 41" E 9.20~~
7 ~~ft.,~~

8 ~~[THENCE with the Southwest line of Hays County Road No. 158 and with~~
9 ~~the Northeast line of said LaSalle Holdings (765.035 acre) tract,~~
10 ~~the following four (4) courses,~~

11 ~~[1) S 45 deg. 36' 48" E 2564.23 ft. to a 1/2" iron rod found,~~
12 ~~[2) S 28 deg. 19' 21" E 180.67 ft. to a 1/2" iron rod found,~~
13 ~~[3) S 45 deg. 36' 07" E 787.93 ft. to a 1/2" iron rod found,~~
14 ~~[4) S 00 deg. 52' 46" E 57.01 ft. to a 1/2" iron rod found for~~
15 ~~an Easterly angle corner of said~~

16 ~~[LaSalle Holdings (765.035 acre) tract and being an~~
17 ~~Easterly angle corner of this tract,~~

18 ~~[THENCE with the Northwest line of Hays County Road No. 158 and with~~
19 ~~the Southeast line of said LaSalle Holdings (765.035 acre) tract,~~
20 ~~the following two (2) courses,~~

21 ~~[1) S 43 deg. 23' 26" W 2355.38 ft. to a 1/2" iron rod found,~~
22 ~~[2) S 43 deg. 23' 01" W 1294.66 ft. to a point for the most~~
23 ~~Southerly corner of this tract and from which a 1/2" iron rod found~~
24 ~~in the Northwest line of Hays County Road No. 158 and in the~~
25 ~~Southeast line of said LaSalle Holdings (765.035 acre) tract bears~~
26 ~~S 43 deg. 23' 01" W 302.20 ft.,~~

27 ~~[THENCE leaving the Northwest line of Hays County Road No. 158 and~~

~~crossing the interior of said LaSalle Holdings (765.035 acre) tract with the Southwest line of this tract, N 45 deg. 39' 03" W 3568.62 ft. to a point in a Northwesterly line of said LaSalle Holdings (765.035 acre) tract for the most Westerly Northwest corner of this tract,~~

~~[THENCE with a Northwesterly line of said LaSalle Holdings (765.035 acre) tract, N 43 deg. 28' 18" E 700.00 ft. to a capped iron rod found (marked "Byrn") for an angle corner of said LaSalle Holdings (765.035 acre) tract and being an angle corner of this tract, and from which a 1" iron pipe found for an angle corner in a Southwesterly line of said LaSalle Holdings (765.035 acre) tract bears N 45 deg. 13' 18" W 487.22 ft.,~~

~~[THENCE re-crossing the interior of said LaSalle Holdings (765.035 acre) tract with the Northwest line of this tract, N 43 deg. 27' 55" E 3046.28 ft. to the PLACE OF BEGINNING, containing 305.41 acres of land.]~~

SECTION 4. (a) All governmental and proprietary actions of the LaSalle Municipal Utility District No. 2 taken before the effective date of this Act, including the creation of the district, the consent to create the district granted by the City of San Marcos, the consent agreement relating to the district and any amendments to that agreement, and any extension of time in which to hold a confirmation election for the district, are validated, ratified, and confirmed in all respects.

(b) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation

ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

SECTION 5. (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 6. For purposes of Section 8473.052(b)(2), Special District Local Laws Code, as amended by this Act, the effective date of the temporary directors' designation is the effective date of this Act.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2017.