

By: Zaffirini

S.B. No. 2299

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the temporary board of and financing of certain
3 facilities and improvements by the LaSalle Municipal Utility
4 District No. 5; providing authority to impose an assessment.

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

6 SECTION 1. Sections 8476.052(a) and (b), Special District
7 Local Laws Code, are amended to read as follows:

8 (a) The temporary board consists of:

9 (1) Jack Wilhelm;

10 (2) David Tuckfield;

11 (3) Jon Cobb;

12 (4) Bob Ruggio; and

13 (5) Adam Van Ackeren [~~On or after the effective date of~~
14 ~~the Act enacting this chapter, the owner or owners of a majority of~~
15 ~~the assessed value of the real property in the district may submit a~~
16 ~~petition to the commission requesting that the commission appoint~~
17 ~~as temporary directors the five persons named in the petition. The~~
18 ~~commission shall appoint as temporary directors the five persons~~
19 ~~named in the petition].~~

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

21 (1) the date permanent directors are elected under
22 Section 8476.003; or

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

1 SECTION 2. Section 8476.201, Special District Local Laws
2 Code, is amended to read as follows:

3 Sec. 8476.201. AUTHORITY TO ISSUE BONDS AND OTHER
4 OBLIGATIONS. (a) Except as provided by Subsection (b), the [The]
5 district may issue bonds or other obligations payable wholly or
6 partly from ad valorem taxes, impact fees, revenue, contract
7 payments, grants, or other district money, or any combination of
8 those sources, to pay for any authorized district purpose.

9 (b) The district may not issue bonds payable wholly or
10 partly from assessments.

11 SECTION 3. Chapter 8476, Special District Local Laws Code,
12 is amended by adding Subchapter F to read as follows:

13 SUBCHAPTER F. ASSESSMENTS; APPLICABILITY OF ASSESSMENTS

14 Sec. 8476.251. PETITION REQUIRED FOR FINANCING
15 IMPROVEMENTS AND RECREATIONAL FACILITIES WITH ASSESSMENTS.

16 (a) Except as provided by this subchapter, the board may finance
17 the construction or maintenance of a recreational facility or
18 improvement with assessments on property under this subchapter only
19 if:

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

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

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

1 Sec. 8476.252. MISCELLANEOUS DESIGN, CONSTRUCTION, AND
2 MAINTENANCE. An improvement or recreational facility project may
3 include the planning, design, construction, improvement, and
4 maintenance of:

- 5 (1) landscaping;
- 6 (2) marinas and bridges;
- 7 (3) lighting, banners, and signs;
- 8 (4) hiking and cycling paths or trails;
- 9 (5) sidewalks, pedestrian walkways, skywalks,
10 crosswalks, or tunnels;
- 11 (6) ponds, lakes, recreational facilities, or scenic
12 areas;
- 13 (7) plazas or pedestrian malls;
- 14 (8) drainage or navigation improvements; or
- 15 (9) solid waste, water, sewer, or power facilities,
16 including electrical and gas power facilities.

17 Sec. 8476.253. METHOD OF NOTICE FOR HEARING. The district
18 shall mail notice of the hearing to each property owner in the
19 district who will be subject to the assessment at the current
20 address to be assessed as reflected on the tax rolls. The district
21 may mail the notice by certified or first class United States mail.
22 The board shall determine the method of notice.

23 Sec. 8476.254. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) An
24 assessment or a reassessment imposed under this subchapter by the
25 district, penalties and interest on an assessment or reassessment,
26 an expense of collection, and reasonable attorney's fees incurred
27 by the district:

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

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

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

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

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

17 Sec. 8476.255. UTILITY PROPERTY EXEMPT FROM ASSESSMENTS.
18 The district may not impose an assessment on the property,
19 including the equipment, rights-of-way, facilities, or
20 improvements, of:

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

23 (2) a gas utility as defined by Section 101.003 or
24 121.001, Utilities Code;

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

27 (4) a person who provides to the public cable

1 television or advanced telecommunications services.

2 SECTION 4. Section 2, Chapter 503, Acts of the 83rd
3 Legislature, Regular Session, 2013, is amended to read as follows:

4 Sec. 2. The LaSalle Municipal Utility District No. 5
5 initially includes all the territory contained in the following
6 area:

7 DESCRIPTION OF A TRACT OF LAND CONTAINING 272.071 ACRES OF
8 LAND OUT OF THE WILLIAM HEMPHILL SURVEY, ABSTRACT NO. 221, SITUATED
9 IN HAYS COUNTY, TEXAS, BEING A PORTION OF THE 811.38 ACRE TRACT
10 CONVEYED TO LASALLE HOLDINGS LTD., BY DEED OF RECORD IN VOLUME 2909,
11 PAGE 684, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID
12 272.071 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND
13 BOUNDS AS FOLLOWS:

14 BEGINNING AT A 1/2-INCH IRON ROD FOUND AT THE MOST SOUTHERLY
15 CORNER OF SAID 811.38 ACRE TRACT, SAID POINT BEING THE NORTHERLY
16 COMMON CORNER OF THE 305 ACRE TRACT CONVEYED TO CEDAR STUMP LP, BY
17 DEED OF RECORD IN VOLUME 1489, PAGE 800, OF SAID OFFICIAL PUBLIC
18 RECORDS, AND OF THE 199.17 ACRE TRACT CONVEYED TO KYLE THREE
19 PARTNERS LP, BY DEED OF RECORD IN VOLUME 2940, PAGE 195, OF SAID
20 OFFICIAL PUBLIC RECORDS, FOR THE MOST SOUTHERLY CORNER AND POINT OF
21 BEGINNING HEREOF;

22 THENCE, ALONG THE COMMON LINE OF SAID 199.17 ACRE TRACT, AND
23 OF SAID 811.38 ACRE TRACT, GENERALLY WITH A BARBED WIRE FENCE, THE
24 FOLLOWING THIRTEEN (13) COURSES AND DISTANCES:

25 1) N54°50'51"W, A DISTANCE OF 771.35 FEET TO A FOUND 1/2-INCH
26 IRON ROD;

27 2) S82°34'23"W, A DISTANCE OF 840.87 FEET TO A FOUND 1/2-INCH

1 IRON ROD;
2 3) N52°52'15"W, A DISTANCE OF 690.88 FEET TO A FOUND 1/2-INCH
3 IRON ROD;
4 4) N62°34'40"W, A DISTANCE OF 68.98 FEET TO A FOUND 1/2-INCH
5 IRON ROD;
6 5) N68°34'23"W, A DISTANCE OF 56.45 FEET TO A FOUND 1/2-INCH
7 IRON ROD;
8 6) N72°57'43"W, A DISTANCE OF 88.21 FEET TO A FOUND 1/2-INCH
9 IRON ROD;
10 7) N73°27'40"W, A DISTANCE OF 53.90 FEET TO A FOUND 1/2-INCH
11 IRON ROD;
12 8) N78°51'26"W, A DISTANCE OF 427.41 FEET TO A FOUND 1/2-INCH
13 IRON ROD WITH "BYRN" CAP;
14 9) N88°42'40"W, A DISTANCE OF 82.89 FEET TO A FOUND 1/2-INCH
15 IRON ROD WITH "BYRN" CAP;
16 10) S89°20'36"W, A DISTANCE OF 252.54 FEET TO A FOUND WOOD
17 FENCE POST;
18 11) N78°22'26"W, A DISTANCE OF 289.01 FEET TO A FOUND WOOD
19 FENCE POST;
20 12) N70°19'37"W, A DISTANCE OF 133.26 FEET TO A FOUND
21 1/2-INCH IRON ROD;
22 13) N65°54'03"W, A DISTANCE OF 1059.47 FEET TO A 1/2-INCH
23 IRON ROD FOUND ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY
24 ROAD 158 (UNDEDICATED RIGHT-OF-WAY), AS USED ON THE GROUND;
25 THENCE ALONG THE COMMON LINE OF SAID 811.38 ACRE TRACT AND OF
26 THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 158, THE
27 FOLLOWING TWO (2) COURSES AND DISTANCES:

1 1) N42°58'24"E, A DISTANCE OF 3,243.10 FEET TO A FOUND
2 1/2-INCH IRON ROD;

3 2) N42°52'47"E, A DISTANCE OF 570.78 FEET TO A CALCULATED
4 POINT;

5 THENCE OVER AND ACROSS SAID 811.38 ACRE TRACT THE FOLLOWING
6 TWO (2) COURSES AND DISTANCES:

7 1) S45°40'51"E, A DISTANCE OF 942.00 FEET TO A CALCULATED
8 POINT;

9 2) S46°24'34"E, A DISTANCE OF 3,289.74 FEET TO A CALCULATED
10 POINT ON THE NORTHWESTERLY LINE OF SAID 305 ACRE TRACT;

11 THENCE ALONG THE COMMON LINE OF SAID 811.38 ACRE TRACT AND OF
12 SAID 305 ACRE TRACT, S43°29'59"W, A DISTANCE OF 1,830.79 FEET THE
13 POINT OF BEGINNING, AND CONTAINING 272.071 ACRES OF LAND, MORE OR
14 LESS.

15 ~~[FIELD NOTE DESCRIPTION OF 275.81 ACRES OF LAND OUT OF THE WILLIAM~~
16 ~~HEMPHILL SURVEY ABSTRACT No. 221 IN HAYS COUNTY, TEXAS, BEING A~~
17 ~~PORTION OF THAT CERTAIN (811.38 ACRE) TRACT OF LAND AS CONVEYED TO~~
18 ~~LASALLE HOLDINGS, LTD. BY SPECIAL WARRANTY DEED RECORDED IN VOLUME~~
19 ~~2909 PAGE 684 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS,~~
20 ~~AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS~~
21 ~~FOLLOWS:~~

22 ~~[BEGINNING FOR REFERENCE at a capped iron rod found (marked~~
23 ~~"ProTech") in the Northwest line of the Old San Antonio Road for the~~
24 ~~most Easterly corner of that certain (811.38 acre) tract of land as~~
25 ~~conveyed to LaSalle Holdings by Special Warranty Deed recorded in~~
26 ~~Volume 2909 Page 684 of the Official Public Records of Hays County,~~
27 ~~Texas,~~

1 ~~[THENCE with the Southeast line of said LaSalle Holdings (811.38~~
2 ~~acre) tract, S 48 deg. 44' 13" W 178.85 ft. to a capped iron rod~~
3 ~~found (marked "Byrn") at the point of intersection with the curving~~
4 ~~Northwest right-of-way line State Highway No. 21,~~

5 ~~[THENCE with the Northwest right-of-way line of State Highway No.~~
6 ~~21, the following two (2) courses,~~

7 ~~[1] along a curve to the left with a radius of 5779.51 ft. for~~
8 ~~an arc length of 830.52 ft. and which chord bears S 52 deg. 53' 22" W~~
9 ~~829.80 ft. to a PK nail found in a broken concrete monument for a~~
10 ~~point of tangency,~~

11 ~~[2] S 48 deg. 46' 22" W 1475.74 ft. to a 1/2" iron rod found~~
12 ~~for the most Southerly corner of said LaSalle Holdings (811.38~~
13 ~~acre) tract,~~

14 ~~[THENCE leaving the Northwest right-of-way line of State Highway~~
15 ~~No. 21 with a Southerly line of said LaSalle Holdings (811.38 acre)~~
16 ~~tract, the following two (2) courses,~~

17 ~~[1] N 45 deg. 31' 36" W 2950.62 ft.,~~

18 ~~[2] S 44 deg. 02' 00" W 1300.00 ft. to a point for an Easterly~~
19 ~~angle corner and PLACE OF BEGINNING of the herein described tract of~~
20 ~~land,~~

21 ~~[THENCE continuing with a Southerly or Southeasterly line of said~~
22 ~~LaSalle Holdings (811.38 acre) tract, S 44 deg. 02' 00" W 1863.28~~
23 ~~ft. to a point for the most Southerly corner of this tract,~~

24 ~~[THENCE continuing with a Southerly line of said LaSalle Holdings~~
25 ~~(811.38 acre) tract, the following thirteen (13) courses,~~

26 ~~[1] N 54 deg. 17' 20" W 771.66 ft.,~~

27 ~~[2] S 83 deg. 08' 18" W 840.88 ft.,~~

1 ~~[3) N 52 deg. 17' 55" W 690.89 ft.;~~
2 ~~[4) N 62 deg. 00' 02" W 69.27 ft.;~~
3 ~~[5) N 68 deg. 09' 41" W 56.18 ft.;~~
4 ~~[6) N 72 deg. 20' 49" W 88.29 ft.;~~
5 ~~[7) N 73 deg. 00' 27" W 53.89 ft.;~~
6 ~~[8) N 78 deg. 17' 31" W 427.31 ft.;~~
7 ~~[9) N 88 deg. 16' 13" W 82.92 ft.;~~
8 ~~[10) S 89 deg. 50' 43" W 252.84 ft.;~~
9 ~~[11) N 77 deg. 42' 55" W 289.03 ft.;~~
10 ~~[12) N 69 deg. 45' 12" W 133.17 ft.;~~
11 ~~[13) N 65 deg. 20' 24" W 1059.29 ft. to a point in the~~
12 ~~Southeast line of Hays County Road No. 158 for the most Westerly~~
13 ~~corner of said LaSalle Holdings (811.38 acre) tract and being the~~
14 ~~most Westerly corner of this tract;~~
15 ~~[THENCE with the Southeast line of Hays County Road No. 158 and with~~
16 ~~the Northwest line of said LaSalle Holdings (811.38 acre) tract,~~
17 ~~the following two (2) courses;~~
18 ~~[1) N 43 deg. 32' 03" E 3243.31 ft. to a 1/2" iron rod found;~~
19 ~~[2) N 43 deg. 26' 25" E 605.66 ft. to a point for the most~~
20 ~~Northerly corner of this tract, and from which a capped iron rod~~
21 ~~found (marked "Byrn") in the Southeast line of Hays County Road No.~~
22 ~~158 and in the Northwest line of said LaSalle Holdings (811.38 acre)~~
23 ~~tract bears N 43 deg. 26' 25" E 482.55 ft.;~~
24 ~~[THENCE crossing the interior of said LaSalle Holdings (811.38~~
25 ~~acre) tract with the Northeast line of this tract, S 45 deg. 39' 03"~~
26 ~~E 4231.53 ft. to the PLACE OF BEGINNING, containing 275.81 acres of~~
27 ~~land.]~~

1 SECTION 5. (a) All governmental and proprietary actions of
2 the LaSalle Municipal Utility District No. 5 taken before the
3 effective date of this Act, including the creation of the district,
4 the consent to create the district granted by the City of San
5 Marcos, the consent agreement relating to the district and any
6 amendments to that agreement, and any extension of time in which to
7 hold a confirmation election for the district, are validated,
8 ratified, and confirmed in all respects.

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

11 (1) is involved in litigation if the litigation
12 ultimately results in the matter being held invalid by a final court
13 judgment; or

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

15 SECTION 6. (a) The legal notice of the intention to
16 introduce this Act, setting forth the general substance of this
17 Act, has been published as provided by law, and the notice and a
18 copy of this Act have been furnished to all persons, agencies,
19 officials, or entities to which they are required to be furnished
20 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
21 Government Code.

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

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

1 representatives within the required time.

2 (d) All requirements of the constitution and laws of this
3 state and the rules and procedures of the legislature with respect
4 to the notice, introduction, and passage of this Act are fulfilled
5 and accomplished.

6 SECTION 7. For purposes of Section 8476.052(b)(2), Special
7 District Local Laws Code, as amended by this Act, the effective date
8 of the temporary directors' designation is the effective date of
9 this Act.

10 SECTION 8. 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, 2017.