

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 22, 2019

The Honorable Dan Patrick
Lieutenant Governor of Texas
Capitol Station
PO Box 12068
Austin, Texas 78711

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

Senate Bill (SB) 2549, as Filed by Senator Pat Fallon - Relating to the creation of the Grayson County Municipal Utility District No. 3; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

Dear Governor Patrick:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Sincerely,

A handwritten signature in cursive script that reads "Cari-Michel La Caille".

Cari-Michel La Caille, Director
Water Supply Division

cc: Honorable Eddie Lucio, Jr., Chairman, Senate Intergovernmental Relations Committee
Senator Pat Fallon, Texas Senate

Enclosure

**SB 2549, as Filed by Senator Pat Fallon
Texas Commission on Environmental Quality's Comments**

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ), has determined that:

This bill creates Grayson County Municipal Utility District No. 3 (District) with the powers and duties of a standard municipal utility district under Water Code Chapters 49 and 54.

Comments on Powers/Duties Different from Similar Types of Districts:

The District must receive consent to the creation of the District from each municipality in whose corporate limits or extraterritorial jurisdiction the District is located prior to holding a confirmation election; the bill requires the TCEQ to appoint the five initial temporary directors upon receipt of a petition from the owners of a majority of the assessed value of the real property in the District; the bill specifies that the District may not act as a retail provider of water or wastewater service; the District shall make the District's water and wastewater facilities available to an entity holding the applicable certificate of public convenience and necessity; the bill grants the District authority for road projects; the bill specifies that if District territory or a portion of District territory is located outside the corporate limits of the City of Gunter, the District shall maintain any road the District constructs located in that territory; the bill allows the District to divide; the bill specifies that 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 real property in the District; and if the bill does not receive a two-thirds vote of all members elected to each house, the District may not exercise the power of eminent domain.

Overlapping Services: TCEQ does not have mapping information for water and/or wastewater providers because this function was transferred from the TCEQ to the Public Utility Commission on September 1, 2014. As a result, TCEQ is unaware of possible overlapping service providers.

TCEQ's Supervision: As with general law districts, the TCEQ will have general supervisory authority, including bond review authority and review

of financial reports.

LETTER OF TRANSMITTAL
TEXAS SENATE
STATE OF TEXAS

SB 2549

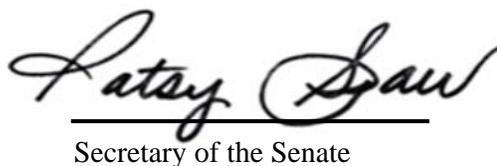
Bill Number

TO: The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

4/18/2019

Date transmitted to
Governor's Office


Secretary of the Senate

TO: Texas Commission on Environmental Quality
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to conservation and reclamation district and a copy of the notice of intention to introduce the bill.

April 24, 2019

Date transmitted to
Texas Commission on Environmental Quality


Governor

TO: The Honorable President of the Senate
The Honorable Speaker of the House of Representatives
The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.



Texas Commission on Environmental Quality

By: Fallon

S.B. No. 2549

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Grayson County Municipal Utility District No. 3; 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 8009 to read as follows:

CHAPTER 8009. GRAYSON COUNTY MUNICIPAL UTILITY DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8009.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the city of Gunter, Texas.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Director" means a board member.

(5) "District" means the Grayson County Municipal Utility District No. 3.

Sec. 8009.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8009.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 8009.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 8009.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 8009.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

9 (a) The district is created to serve a public purpose and benefit.

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

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

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

17 Sec. 8009.0106. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

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

24 (1) organization, existence, or validity;

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

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 8009.0201. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section 8009.0202, directors
7 serve staggered four-year terms.

8 Sec. 8009.0202. TEMPORARY DIRECTORS. (a) On or after
9 September 1, 2019, the owner or owners of a majority of the assessed
10 value of the real property in the district may submit a petition to
11 the commission requesting that the commission appoint as temporary
12 directors the five persons named in the petition. The commission
13 shall appoint as temporary directors the five persons named in the
14 petition.

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

16 (1) the date permanent directors are elected under
17 Section 8009.0103; or

18 (2) September 1, 2023.

19 (c) If permanent directors have not been elected under
20 Section 8009.0103 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 8009.0103; 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. 8009.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8009.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. (a) 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 (b) Notwithstanding Subsection (a), the district may not
18 act as a retail provider of water or wastewater service.

19 (c) The district shall make the district's water and
20 wastewater facilities available to an entity holding the applicable
21 certificate of public convenience and necessity.

22 Sec. 8009.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
23 52, Article III, Texas Constitution, the district may design,
24 acquire, construct, finance, issue bonds for, improve, operate,
25 maintain, and convey to this state, a county, or a municipality for
26 operation and maintenance macadamized, graveled, or paved roads, or
27 improvements, including storm drainage, in aid of those roads.

1 Sec. 8009.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
2 road project must meet all applicable construction standards,
3 zoning and subdivision requirements, and regulations of each
4 municipality in whose corporate limits or extraterritorial
5 jurisdiction the road project is located.

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

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

14 Sec. 8009.0305. MAINTENANCE OF ROADS IN TERRITORY OUTSIDE
15 CORPORATE LIMITS OF CITY. If district territory, or a portion of
16 district territory, is located outside the corporate limits of the
17 city, the district shall maintain any road the district constructs
18 located in that territory.

19 Sec. 8009.0306. COMPLIANCE WITH MUNICIPAL CONSENT
20 ORDINANCE OR RESOLUTION. The district shall comply with all
21 applicable requirements of any ordinance or resolution that is
22 adopted under Section 54.016 or 54.0165, Water Code, and that
23 consents to the creation of the district or to the inclusion of land
24 in the district.

25 Sec. 8009.0307. DIVISION OF DISTRICT. (a) The district may
26 be divided into two or more new districts only if the district:

27 (1) has no outstanding bonded debt; and

1 (2) is not imposing ad valorem taxes.

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

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

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

13 (e) The board may adopt an order dividing the district
14 before or after the date the board holds an election under Section
15 8009.0103 to confirm the district's creation.

16 (f) An order dividing the district shall:

17 (1) name each new district;

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

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

21 and

22 (4) provide for the division of assets and liabilities
23 between or among the new districts.

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

1 (h) Any new district created by the division of the district
2 shall hold a confirmation and directors' election as required by
3 Section 8009.0103. If the voters of a new district do not confirm
4 the creation of the new district, the assets, obligations,
5 territory, and governance of the new district revert to the
6 original district.

7 (i) Municipal consent to the creation of the district and to
8 the inclusion of land in the district granted under Section
9 8009.0104 acts as municipal consent to the creation of any new
10 district created by the division of the district and to the
11 inclusion of land in the new district.

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

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 8009.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
18 The district may issue, without an election, bonds and other
19 obligations secured by:

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

21 (2) contract payments described by Section 8009.0403.

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

26 (c) The district may not issue bonds payable from ad valorem
27 taxes to finance a road project unless the issuance is approved by a

1 vote of a two-thirds majority of the district voters voting at an
2 election held for that purpose.

3 Sec. 8009.0402. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 8009.0401, the
5 district may impose an operation and maintenance tax on taxable
6 property in the district in accordance with Section 49.107, Water
7 Code.

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

10 Sec. 8009.0403. CONTRACT TAXES. (a) In accordance with
11 Section 49.108, Water Code, the district may impose a tax other than
12 an operation and maintenance tax and use the revenue derived from
13 the tax to make payments under a contract after the provisions of
14 the contract have been approved by a majority of the district voters
15 voting at an election held for that purpose.

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

19 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

20 Sec. 8009.0501. AUTHORITY TO ISSUE BONDS AND OTHER
21 OBLIGATIONS. The district may issue bonds or other obligations
22 payable wholly or partly from ad valorem taxes, impact fees,
23 revenue, contract payments, grants, or other district money, or any
24 combination of those sources, to pay for any authorized district
25 purpose.

26 Sec. 8009.0502. TAXES FOR BONDS. At the time the district
27 issues bonds payable wholly or partly from ad valorem taxes, the

1 board shall provide for the annual imposition of a continuing
2 direct ad valorem tax, without limit as to rate or amount, while all
3 or part of the bonds are outstanding as required and in the manner
4 provided by Sections 54.601 and 54.602, Water Code.

5 Sec. 8009.0503. BONDS FOR ROAD PROJECTS. At the time of
6 issuance, the total principal amount of bonds or other obligations
7 issued or incurred to finance road projects and payable from ad
8 valorem taxes may not exceed one-fourth of the assessed value of the
9 real property in the district.

10 SECTION 2. The Grayson County Municipal Utility District
11 No. 3 initially includes all the territory contained in the
12 following area:

13 All that certain tract or parcel of land situated in the Sarah Cross
14 Survey, Abstract Number 210, County of Grayson, State of Texas,
15 said tract being all of a called 578.517 acre tract as described in
16 Deed to Evans Family Partnership LTD, filed 23 March 2005, and
17 Recorded in Volume 3835 Page 465 of the Deed Records of the County
18 of Grayson, State of Texas, and being more fully described as
19 follows:

20 Beginning for the southwest corner of the tract being described
21 herein at a Wood Cross-Tie fence corner Post, said post being the
22 southwest corner of said Evans tract, and the southeast corner of a
23 tract as described in Deed to William H. Ledbetter, filed 11
24 December 1978, and Recorded in Volume 1456 Page 570 of said Deed
25 Records, and on the north Right-of-Way line of Farm-to-Market Road
26 Number 121 as described in deed to The State of Texas, filed 20
27 January 1951, and Recorded in Volume 638 Page 284 of said Deed

1 Records;

2 Thence: North 02 degrees 27 minutes 06 seconds East, with the west
3 line of said Evans tract, and the east line of said Ledbetter tract,
4 and passing at 1659.63 feet a Wood Cross-Tie fence corner post being
5 the northeast corner of said Ledbetter tract and the southwest
6 corner of a tract as described in deed to Donald Ray Martinek,
7 Trustee, and passing at 3757.23 feet a Wood Cross-Tie fence corner
8 post on the south side of Airport Road, and continuing on said
9 course for a total distance of 3784. 73 feet (3778.50) to a set
10 survey mark Nail in the center line of said Airport Road;

11 Thence: South 87 degrees 34 minutes 18 seconds East, with the north
12 line of said Evans tract, and in Airport Road, a distance of 6705.82
13 feet (6690.80) to a set survey mark nail for the northeast corner of
14 said Evan tract and at the intersection of said Airport Road and
15 Bodovsky Road, said nail also being on the east line of the Sarah
16 Cross Survey, and the west line of the Stephen Prather Survey,
17 Abstract Number 931;

18 Thence: South 02 degrees 20 minutes 52 seconds West, with the east
19 line of said Evans tract, and in Bodovsky Road, a distance of 799.69
20 feet to a found PK Nail for the southwest corner of said Prather
21 Survey and the northwest corner of the Benjamin S. Nounnan Survey
22 Abstract Number 903, and at a intersection of said Airport Road and
23 Bodovsky Road;

24 Thence: South 02 degrees 29 minutes 56 seconds West, with the east
25 line of said Evans tract, and in Bodovsky Road, a distance of
26 2981.56 feet to a found 3/4 inch Steel Rod for the southeast corner
27 of said Evan tract and at a turn in Bodovsky Road and on the north

1 line of a tract as described in Deed to GIC Hedges, filed 27 July
2 2006, and Recorded in Volume 4093 Page 207 of said Deed Records;
3 Thence: North 87 degrees 58 minutes 12 seconds West, with the south
4 line of said Evans tract, and in Bodovsky Road, a distance of
5 1160.49 feet to a found survey mark nail for the northwest corner of
6 a said Hedges tract, and the northeast corner of a tract as
7 described in Deed to Clifton G. Goodrum, filed 16 June 2006, and
8 Recorded in Volume 3010 Page 268 of said Deed Records, and at the
9 intersection of Bodovsky Road and Liberty Love Lane;

10 Thence: North 87 degrees 38 minutes 09 seconds, West, with the south
11 line of said Evans tract, and the north line of said Goodrum tract,
12 and in Bodovsky Road, a distance of 638.12 feet to a set survey mark
13 nail for the northwest corner of said Goodrum tract and on the east
14 Right-of-Way line of Farm-to-Market Road Number 121;

15 Thence: With the south line of said Evans tract, and along the north
16 ROW line of said FM 121, the following 8 (eight) calls;

17 1. North 04 degrees 11 minutes 10 seconds East, a distance
18 of 25.00 feet to a found State of Texas Concrete Right-of-Way
19 Monument;

20 2. North 87 degrees 38 minutes 07 seconds West, a distance
21 of 327.28 feet to a found State of Texas Concrete Right-of-Way
22 Monument, and the start of a curve to the left whose radius is
23 1185.94 feet, and a central angle of 09 degrees 08 minutes 00
24 seconds;

25 3. With said curve an arc length of 189.05 feet to a set 1/2
26 inch Steel Square Tubing for a corner;

27 4. North 87 degrees 51 minutes 33 seconds West, a distance

1 of 2040.40 feet to a found State of Texas Concrete Right-of-Way
2 Monument;

3 5. North 88 degrees 50 minutes 00 seconds West, a distance
4 of 1045.64 feet to a found State of Texas Concrete Right-of-Way
5 Monument;

6 6. North 85 degrees 03 minutes 00 seconds West, a distance
7 of 151.30 feet for a corner;

8 7. North 88 degrees 44 minutes 29 seconds West, a distance
9 of 447.05 feet to a found State of Texas Concrete Right-of-Way
10 Monument;

11 8. North 87 degrees 22 minutes 12 seconds West, a distance
12 of 707.52 feet to the POINT OF BEGINNING and containing 580.877
13 acres of land, more or less.

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

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

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

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

5 SECTION 4. (a) If this Act does not receive a two-thirds
6 vote of all the members elected to each house, Subchapter C, Chapter
7 8009, Special District Local Laws Code, as added by Section 1 of
8 this Act, is amended by adding Section 8009.0308 to read as follows:

9 Sec. 8009.0308. NO EMINENT DOMAIN POWER. The district may
10 not exercise the power of eminent domain.

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

14 SECTION 5. This Act takes effect September 1, 2019.

Affidavit of Publication

STATE OF TEXAS)
COUNTY OF GRAYSON) SS:

**COATS & ROSE HOUSTON OFFICE
9 GREENWAY PLAZA
SUITE 1100
HOUSTON TX 77046**

**Account # 120538
Ad Number 0001206706**

Jeanine Sewell, being 1st duly sworn, deposes and says: That (s)he is the Legal Clerk for the Herald Democrat, a daily newspaper regularly issued, published and circulated in the City of Sherman, County of Grayson, State of Texas, and that the advertisement,

NOTICE OF INTENT TO INTRODUCE A BILL Pursuant to the Constitution and laws of the State of Texas, notice is hereby given of the intention to apply to the 86

a true copy attached for, was published in said Herald Democrat in 1 edition(s) of said newspaper issued from 02/07/2019 to 02/07/2019, on the following days:

02 / 07 / 19

NOTICE OF INTENT TO INTRODUCE A BILL

Pursuant to the Constitution and laws of the State of Texas, notice is hereby given of the intention to apply to the 86th Legislature of the State of Texas at its regular session in Austin, Texas for the introduction of a bill, the substance of the contemplated law being as follows:

An act relating to the creation of the Grayson County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds.

The Act proposes to create a conservation and reclamation district to be known as Grayson County Municipal Utility District No. 3, being approximately 581 acres in Grayson County, Texas, more particularly described as follows:

Approximately 582 acres of land in Grayson County, Texas located north of Farm to Market Road 121, south of Airport Road, east of Kardum Lane and west of Bodovsky Road.

The District's creation is subject to approval at a confirmation election.

All interested persons will, therefore, take notice of the matters and facts set out in the foregoing statement of the substance of the contemplated laws as required by the Constitution and laws of the State of Texas.

IS/ Jeanine Sewell
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 7th day of February, 2019

Notary Michelle Henderson

