

By: Zerwas

H.B. No. 4636

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Orchard Municipal Utility District No. 1; 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 8079 to read as follows:

CHAPTER 8079. ORCHARD MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8079.0101. 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 Orchard Municipal Utility District No. 1.

Sec. 8079.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8079.0103. 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.

1       Sec. 8079.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 8079.0103 until each municipality in whose corporate limits or  
4 extraterritorial jurisdiction the district is located has  
5 consented by ordinance or resolution to the creation of the  
6 district and to the inclusion of land in the district.

7       Sec. 8079.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

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

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

16       Sec. 8079.0106. INITIAL DISTRICT TERRITORY. (a) The  
17 district is initially composed of the territory described by  
18 Section 2 of the Act enacting this chapter.

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

23       (1) organization, existence, or validity;

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

27       (3) right to impose a tax; or

1           (4) legality or operation.

2                   SUBCHAPTER B. BOARD OF DIRECTORS

3           Sec. 8079.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 8079.0202, directors  
6 serve staggered four-year terms.

7           Sec. 8079.0202. TEMPORARY DIRECTORS. (a) On or after the  
8 effective date of the Act enacting this chapter, the owner or owners  
9 of a majority of the assessed value of the real property in the  
10 district may submit a petition to the commission requesting that  
11 the commission appoint as temporary directors the five persons  
12 named in the petition. The commission shall appoint as temporary  
13 directors the five persons named in the petition.

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

15                   (1) the date permanent directors are elected under  
16 Section 8079.0103; or

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

19           (c) If permanent directors have not been elected under  
20 Section 8079.0103 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 8079.0103; 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. 8079.0301. 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. 8079.0302. MUNICIPAL UTILITY DISTRICT POWERS AND  
13 DUTIES. 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       Sec. 8079.0303. AUTHORITY FOR ROAD PROJECTS. Under Section  
18 52, Article III, Texas Constitution, the district may design,  
19 acquire, construct, finance, issue bonds for, improve, operate,  
20 maintain, and convey to this state, a county, or a municipality for  
21 operation and maintenance macadamized, graveled, or paved roads, or  
22 improvements, including storm drainage, in aid of those roads.

23       Sec. 8079.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
24 road project must meet all applicable construction standards,  
25 zoning and subdivision requirements, and regulations of each  
26 municipality in whose corporate limits or extraterritorial  
27 jurisdiction the road project is located.

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

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

9       Sec. 8079.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
10 ORDINANCE OR RESOLUTION. The district shall comply with all  
11 applicable requirements of any ordinance or resolution that is  
12 adopted under Section 54.016 or 54.0165, Water Code, and that  
13 consents to the creation of the district or to the inclusion of land  
14 in the district.

15       Sec. 8079.0306. DIVISION OF DISTRICT. (a) The district may  
16 be divided into two or more new districts only if the district:

17               (1) has no outstanding bonded debt; and

18               (2) is not imposing ad valorem taxes.

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

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

26       (d) The board, on its own motion or on receipt of a petition  
27 signed by the owner or owners of a majority of the assessed value of

1 the real property in the district, may adopt an order dividing the  
2 district.

3 (e) The board may adopt an order dividing the district  
4 before or after the date the board holds an election under Section  
5 8079.0103 to confirm the district's creation.

6 (f) An order dividing the district must:

7 (1) name each new district;

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

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

11 and

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

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

18 (h) Any new district created by the division of the district  
19 shall hold a confirmation and directors' election as required by  
20 Section 8079.0103.

21 (i) Municipal consent to the creation of the district and to  
22 the inclusion of land in the district granted under Section  
23 8079.0104 acts as municipal consent to the creation of any new  
24 district created by the division of the district and to the  
25 inclusion of land in the new district.

26 (j) Any new district created by the division of the district  
27 must hold an election as required by this chapter to obtain voter

1 approval before the district may impose a maintenance tax or issue  
2 bonds payable wholly or partly from ad valorem taxes.

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

6 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

7 Sec. 8079.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)

8 The district may issue, without an election, bonds and other  
9 obligations secured by:

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

11 (2) contract payments described by Section 8079.0403.

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

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

20 Sec. 8079.0402. OPERATION AND MAINTENANCE TAX. (a) If

21 authorized at an election held under Section 8079.0401, the  
22 district may impose an operation and maintenance tax on taxable  
23 property in the district in accordance with Section 49.107, Water  
24 Code.

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

27 Sec. 8079.0403. CONTRACT TAXES. (a) In accordance with

1 Section 49.108, Water Code, the district may impose a tax other than  
2 an operation and maintenance tax and use the revenue derived from  
3 the tax to make payments under a contract after the provisions of  
4 the contract have been approved by a majority of the district voters  
5 voting at an election held for that purpose.

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

9 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

10 Sec. 8079.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
11 OBLIGATIONS. The district may issue bonds or other obligations  
12 payable wholly or partly from ad valorem taxes, impact fees,  
13 revenue, contract payments, grants, or other district money, or any  
14 combination of those sources, to pay for any authorized district  
15 purpose.

16 Sec. 8079.0502. TAXES FOR BONDS. At the time the district  
17 issues bonds payable wholly or partly from ad valorem taxes, the  
18 board shall provide for the annual imposition of a continuing  
19 direct ad valorem tax, without limit as to rate or amount, while all  
20 or part of the bonds are outstanding as required and in the manner  
21 provided by Sections 54.601 and 54.602, Water Code.

22 Sec. 8079.0503. BONDS FOR ROAD PROJECTS. At the time of  
23 issuance, the total principal amount of bonds or other obligations  
24 issued or incurred to finance road projects and payable from ad  
25 valorem taxes may not exceed one-fourth of the assessed value of the  
26 real property in the district.

27 SECTION 2. The Orchard Municipal Utility District No. 1



1 initially includes all the territory contained in the following  
2 area:

3 A Field Note Description of 1443 Acres of Land, more or less,  
4 being in the Heirs of L. Burknapp Survey, Abstract 109; B.B.B. & C.  
5 Railroad Company Survey No. 19, Abstract 135; German Emigration  
6 Company Survey, Abstract 181; W.T. Lightfoot Survey, Abstract 282  
7 and Yandell Ferris Survey, Abstract 376, Fort Bend County, Texas.

8 Beginning at a point in Long Lane marking the Southeast  
9 corner of the Gail Borden League, Abstract 12; said point being in a  
10 West line of this tract;

11 THENCE, North, 784 feet, more or less, along the East line of  
12 said Gail Borden League, Abstract 12 and a West line of said L.  
13 Burknapp Survey, Abstract 109 and the centerline of Long Lane to a  
14 point marking the Northwest corner of this tract;

15 THENCE, East, 2403 feet, more or less, along the North line of  
16 said Heirs of L. Burknapp Survey, Abstract 109 and the centerline of  
17 Roper Road to a point for corner;

18 THENCE, South, 1212 feet, more or less, along the West line of  
19 the said W.T. Lightfoot Survey, Abstract 282 to a point for corner;

20 THENCE, East, 3662 feet, more or less, along the South line of  
21 five (5) parcels owned by others to a point in the East line of said  
22 W.T. Lightfoot Survey, Abstract 282 for re-entrant corner;

23 THENCE, North, 1298 feet, more or less, to the Northwest  
24 corner of the said German Emigration Company Survey, Abstract 181  
25 for corner;

26 THENCE, East, 8340 feet, more or less, along the North line of  
27 said German Emigration Company Survey, Abstract 181 and the North

1 line of the said B.B.B. & C. Railroad Company Survey No. 19,  
2 Abstract 135 to the Northeast corner of said B.B.B. & C. Railroad  
3 Company Survey No. 19, Abstract 135 and Southeast corner of the  
4 Sarah Kennedy League, Abstract 45 and being in the West line of the  
5 Nancy Spencer Survey, Abstract 88;

6       THENCE, South, along the East line of said B.B.B. & C.  
7 Railroad Company Survey No. 19, Abstract 135 and the Yandell Ferris  
8 Survey, Abstract 376 and being in the West line of the Nancy Spencer  
9 League, Abstract 88, 4586 feet, more or less to a point for corner  
10 in a Westerly City of Rosenberg 5280 foot Radius Extra-Territorial  
11 Jurisdiction Line for corner;

12       THENCE, South 35deg.18' West, 1959 feet more or less, along  
13 said City of Rosenberg 5280 foot Radius Extra-Territorial  
14 Jurisdiction Line curve to the left, to a point in the Northeast  
15 line of the G.C. & S.F. Railroad right-of-way for corner;

16       THENCE, North 70deg.24' West, 845 feet, more or less, along  
17 said Northeast line of the G.C. & S.F. Railroad right-of-way to a  
18 point for corner;

19       THENCE, South, crossing the G.C. & S.F. Railroad  
20 right-of-way and State Highway No. 36 then along the East line of  
21 the 85 Acre Lot 2, a total distance of 2426 feet, more or less, to  
22 the Southeast corner of the Wade McNeill call 85 Acre Lot 2 of the  
23 J.M. MOORE SUBDIVISION (Volume 109, Page 585; Deed Records);

24       THENCE, West, 1479 feet, more or less, to the Southwest  
25 corner of said 85 Acre Tract;

26       THENCE, North, 2695 feet, more of less, to a point in the  
27 Southwest line of State Highway No. 36 marking the Northwest corner

1 of said McNeill Tract;

2           THENCE, North 70deg.14' West, 3493 feet, more or less, along  
3 said Southwest line of said State Highway No. 36 to a point in the  
4 West line of said Yandell Ferris Survey and East line of the said  
5 German Emigration Company Survey, Abstract 181 for corner;

6           THENCE, South, 978 feet, along the West line of said Yandell  
7 Ferris Survey and East line of the German Emigration Company  
8 Survey, Abstract 181 to the Northeast corner of the Heirs of L.  
9 Burknapp Survey, Abstract 109 for corner;

10           THENCE, West, 1638 feet, more or less, along the South line of  
11 said German Emigration Company Survey, Abstract 181 and a North  
12 line of said Heirs of L. Burknapp Survey, Abstract 109 to a point in  
13 the East line of said W.T. Lightfoot Survey, Abstract 283 for  
14 corner;

15           THENCE, North, 1577 feet, more or less, along the West line of  
16 the German Emigration Company Survey, Abstract 181 and East line of  
17 said W.T. Lightfoot Survey, Abstract 283 to a point in the Southwest  
18 line of the State Highway No. 36 for corner;

19           THENCE, North 70deg.17' West, 390 feet, more or less along  
20 the North line of said W.T. Lightfoot Survey, Abstract 283 and South  
21 line of the said W.T. Lightfoot Survey, Abstract 282 for corner;

22           THENCE, West, 3393 feet, along said North line of said W.T.  
23 Lightfoot Survey, Abstract 283 and South line of the W.T. Lightfoot  
24 Survey, Abstract 282 to the Southwest corner of said W.T. Lightfoot  
25 Survey, Abstract 282;

26           THENCE, North, 564 feet, more or less, to angle point;

27           THENCE, North 8deg.26' East, 514.22 feet, more or less, to a

1 point in the Southwest line of said State Highway No. 36 for corner;  
2       THENCE, North 70deg.08' West, 2524.26 feet, more or less,  
3 along the Southwest line of said State Highway No. 36 to a point  
4 marking the Southwest corner for this tract;

5       THENCE, North, crossing State Highway No. 36 and said G.C. &  
6 S.F. Railroad right-of-way, then along the centerline of Long Lane  
7 in all, 915 feet, more or less, to the place of beginning and  
8 containing 1443 Acres of Land, more or less.

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

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

19       (c) The Texas Commission on Environmental Quality has filed  
20 its recommendations relating to this Act with the governor, the  
21 lieutenant governor, and the speaker of the house of  
22 representatives within the required time.

23       (d) All requirements of the constitution and laws of this  
24 state and the rules and procedures of the legislature with respect  
25 to the notice, introduction, and passage of this Act are fulfilled  
26 and accomplished.

27       SECTION 4. (a) If this Act does not receive a two-thirds

1 vote of all the members elected to each house, Subchapter C, Chapter  
2 8079, Special District Local Laws Code, as added by Section 1 of  
3 this Act, is amended by adding Section 8079.0307 to read as follows:

4 Sec. 8079.0307. NO EMINENT DOMAIN POWER. The district may  
5 not exercise the power of eminent domain.

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

9 SECTION 5. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2019.