

By: Smith

H.B. No. 4741

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Grayson County Municipal Utility District No. 5; 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 7892 to read as follows:

CHAPTER 7892. GRAYSON COUNTY MUNICIPAL UTILITY DISTRICT NO. 5

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7892.0101. 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 Grayson County Municipal Utility District No. 5.

Sec. 7892.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7892.0103. 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. 7892.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7892.0103 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. 7892.0105. 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. 7892.0106. 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. 7892.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 7892.0202, directors
6 serve staggered four-year terms.

7 Sec. 7892.0202. TEMPORARY DIRECTORS. (a) On or after
8 September 1, 2019, the owner or owners of a majority of the assessed
9 value of the real property in the district may submit a petition to
10 the commission requesting that the commission appoint as temporary
11 directors the five persons named in the petition. The commission
12 shall appoint as temporary directors the five persons named in the
13 petition.

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

15 (1) the date permanent directors are elected under
16 Section 7892.0103; or

17 (2) September 1, 2023.

18 (c) If permanent directors have not been elected under
19 Section 7892.0103 and the terms of the temporary directors have
20 expired, successor temporary directors shall be appointed or
21 reappointed as provided by Subsection (d) to serve terms that
22 expire on the earlier of:

23 (1) the date permanent directors are elected under
24 Section 7892.0103; or

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

27 (d) If Subsection (c) applies, 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 successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7892.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7892.0302. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. (a) 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.

(b) Notwithstanding Subsection (a), the district may not act as a retail provider of water or wastewater service.

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

Sec. 7892.0303. 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. 7892.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A

1 road project must meet all applicable construction standards,
2 zoning and subdivision requirements, and regulations of each
3 municipality in whose corporate limits or extraterritorial
4 jurisdiction the road project is located.

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

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

13 Sec. 7892.0305. MAINTENANCE OF ROADS IN TERRITORY OUTSIDE
14 CORPORATE LIMITS OF MUNICIPALITY. If district territory, or a
15 portion of district territory, is located outside the corporate
16 limits of a municipality, the district shall maintain any road the
17 district constructs located in that territory.

18 Sec. 7892.0306. COMPLIANCE WITH MUNICIPAL CONSENT
19 ORDINANCE OR RESOLUTION. The district shall comply with all
20 applicable requirements of any ordinance or resolution that is
21 adopted under Section 54.016 or 54.0165, Water Code, and that
22 consents to the creation of the district or to the inclusion of land
23 in the district.

24 Sec. 7892.0307. DIVISION OF DISTRICT. (a) The district may
25 be divided into two or more new districts only if the district:

26 (1) has no outstanding bonded debt; and

27 (2) is not imposing ad valorem taxes.

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

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

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

12 (e) The board may adopt an order dividing the district
13 before or after the date the board holds an election under Section
14 7892.0103 to confirm the district's creation.

15 (f) An order dividing the district shall:

16 (1) name each new district;
17 (2) include the metes and bounds description of the
18 territory of each new district;

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

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

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

27 (h) Any new district created by the division of the district

1 shall hold a confirmation and directors' election as required by
2 Section 7892.0103. If the voters of a new district do not confirm
3 the creation of the new district, the assets, obligations,
4 territory, and governance of the new district revert to the
5 original district.

6 (i) Municipal consent to the creation of the district and to
7 the inclusion of land in the district granted under Section
8 7892.0104 acts as municipal consent to the creation of any new
9 district created by the division of the district and to the
10 inclusion of land in the new district.

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

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 7892.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
17 The district may issue, without an election, bonds and other
18 obligations secured by:

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

20 (2) contract payments described by Section 7892.0403.

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

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

election held for that purpose.

Sec. 7892.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7892.0401, 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. 7892.0403. 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. 7892.0501. 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. 7892.0502. 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

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 7892.0503. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Grayson County Municipal Utility District
10 No. 5 initially includes all the territory contained in the
11 following area:

12 BEING a tract of land situated in the Sarah Shoto Survey,
13 Abstract Number 1079, Grayson County, Texas and being all that
14 called 243.554 acre tract of land conveyed to Duck Bill Partners,
15 LTD, according to the document filed of record in Document Number
16 2002-19154, Deed Records Grayson County, Texas, and being more
17 particularly described as follows:

18 BEGINNING at a point on the north line of F.M. Highway 121 for
19 the southeast corner of said 243.554 acre tract and this tract;

20 THENCE North 88°44'31" West, with said north line, a distance
21 of 2298.48 feet to a point for corner of said 243.554 acre tract and
22 this tract;

23 THENCE North 62°42'31" West, a distance of 113.80 feet to a
24 point for corner of said 243.554 acre tract and this tract;

25 THENCE North 88°44'31" West, a distance of 25.00 feet to a
26 point for the southwest corner of said 243.554 acre tract and this
27 tract;

1 THENCE North 1°18'56" West, leaving the above mentioned north
2 line, a distance of 4329.49 feet to a point for the northwest corner
3 of said 243.554 acre tract and this tract;

4 THENCE South 88°54'39" East, a distance of 2481.57 feet to a
5 point for the northeast corner of said 243.554 acre tract and this
6 tract;

7 THENCE South 2°25'44" West, a distance of 1095.57 feet to a
8 point for corner of said 243.554 acre tract and this tract;

9 THENCE South 1°30'13" East, a distance of 1346.96 feet to a
10 point for corner of said 243.554 acre tract and this tract;

11 THENCE South 1°34'28" East, a distance of 1944.02 feet to the
12 POINT OF BEGINNING and containing 243.554 acres or 10,609,229
13 square feet 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 7892, Special District Local Laws Code, as added by Section 1 of
8 this Act, is amended by adding Section 7892.0308 to read as follows:

9 Sec. 7892.0308. 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.