

By: Nichols

S.B. No. 1371

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Liberty Grand 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 8049 to read as follows:

CHAPTER 8049. LIBERTY GRAND MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8049.0101. 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 Liberty Grand Municipal Utility District No. 1.

Sec. 8049.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8049.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 8049.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8049.0103 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. 8049.0105. 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. 8049.0106. 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. 8049.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8049.0202, directors
6 serve staggered four-year terms.

7 Sec. 8049.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Barrett Von Blon;

10 (2) Randall Hancock;

11 (3) Robert Derrick III;

12 (4) Jess Arnold; and

13 (5) Jock Naponic.

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

15 (1) the date permanent directors are elected under
16 Section 8049.0103; 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 8049.0103 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 8049.0103; 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. 8049.0301. 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. 8049.0302. 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. 8049.0303. 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. 8049.0304. 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. 8049.0305. 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. 8049.0306. DIVISION OF DISTRICT. (a) The district may
16 be divided into two or more new districts only if the district:

- 17 (1) has never issued any bonds; 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 8049.0103 to confirm the creation of the district.

6 (f) An order dividing the district shall:

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 8049.0103.

21 (i) If the creation of the new district is confirmed, the
22 new district shall provide the election date and results to the
23 commission.

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

1 (k) Municipal consent to the creation of the district and to
2 the inclusion of land in the district granted under Section
3 8049.0104 acts as municipal consent to the creation of any new
4 district created by the division of the district and to the
5 inclusion of land in the new district.

6 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

7 Sec. 8049.0401. 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 8049.0403.

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. 8049.0402. OPERATION AND MAINTENANCE TAX. (a) If
21 authorized at an election held under Section 8049.0401, 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. 8049.0403. 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. 8049.0501. 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. 8049.0502. 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. 8049.0503. 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 Liberty Grand Municipal Utility District No.

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

3 BEING a 815.0-acre tract of land situated in the Edward King
4 Survey, Abstract No. 56, the A.S. McLemore Survey, Abstract
5 No. 700, the G.C. & S.F. R.R. Co. Survey, Abstract No. 463 and the
6 H. & T.C. R.R. Co. Survey, Abstract No. 267 of Liberty County, Texas
7 and being a portion of a called 100-acre tract of land as described
8 in an instrument to Stoesser Farms, Inc. recorded under Volume 745,
9 Page 268 of the Deed Records Liberty County (D.R.L.C.), a portion of
10 the 63rd Tract, 59th Tract, 66th Tract, 58th Tract, 43rd Tract, 37th
11 Tract and 39th Tract of lands as described in an instrument to
12 Stoesser Farms, Inc. recorded under Volume 601, Page 541 D.R.L.C.,
13 and all of the 56th Tract, 55th Tract-First Tract, and 60th
14 Tract-First Tract, of lands described in an instrument to Stoesser
15 Farms, Inc. recorded under Volume 601, Page 541 D.R.L.C., said
16 815.0-acre tract of land described by metes and bounds as follows:

17 BEGINNING at a 3/4-inch iron pipe found for an interior
18 corner of a called 85.63-acre tract of land, designated Tract 2,
19 described in an instrument to Coastal Water Authority recorded
20 under Liberty County Clerk's File Number (L.C.C.F. No.) 2012015879,
21 same being the Northwest corner of the remainder of said 100-acre
22 tract and the herein described tract;

23 THENCE, N 87°56'55" E, along and with the North line of the
24 remainder of said 100-acre tract and the North line of the remainder
25 of said 63rd Tract, same being a South line of said 85.63-acre
26 tract, a distance of 1,832.14 feet to a point for the Northeast
27 corner of the herein described tract;

1 THENCE, over and across the remainder of said 63rd Tract, the
2 remainder of said 59th Tract, and said 58th Tract, the following
3 courses and distances:

4 S 43°07'30" E, a distance of 66.12 feet to an angle
5 point of the herein described tract;

6 S 39°22'30" E, a distance of 1,727.57 feet to an angle
7 point of the herein described tract;

8 S 36°28'36" E, a distance of 942.93 feet to an angle
9 point of the herein described tract;

10 S 41°33'17" E, a distance of 280.68 feet to an angle
11 point of the herein described tract;

12 S 39°22'30" E, a distance of 1,727.57 feet to an angle
13 point of the herein described tract;

14 S 35°37'30" E, a distance of 1,102.16 feet to a point
15 for corner of the herein described tract, lying on the North line of
16 a called 80-acre tract of land, designated Tract Six, described in
17 an instrument to Phillip Fouts McMillan recorded under Volume 1102,
18 Page 722 of the Official Public Records of Liberty County Texas;

19 THENCE, along and with the North, West, South and East line of
20 said 80-acre tract, the following courses and distances:

21 S 88°25'48" W, a distance of 477.57 feet to a point for
22 the Northwest corner of said 80-acre tract and an interior corner of
23 the herein described tract;

24 S 01°34'12" E, a distance of 2,357.45 feet to a point
25 for the Southwest corner of said 80-acre tract and an interior
26 corner of the herein described tract;

27 N 88°25'48" E, a distance of 1,481.36 feet to a point

1 for the Southeast corner of said 80-acre tract and an interior
2 corner of the herein described tract;

3 N 01°34'12" W, a distance of 721.07 feet to a point for
4 corner of the herein described tract, lying on the West line of the
5 remainder of said 43rd Tract;

6 THENCE, S 31°52'30" E, over and across said 43rd Tract, a
7 distance of 184.89 feet to a point for corner of the herein
8 described tract, lying on a West Line of a called 519.20-acre tract
9 of land, designated Tract 2, described in an instrument to Cedar
10 Bayou Wildlife, LLC recorded under L.C.C.F. No. 2013000064;

11 THENCE, along and with the West lines of said 519.20-acre
12 tract the following courses and distances:

13 S 33°56'12" W, a distance of 84.47 feet to a point for an
14 interior corner of the herein described tract;

15 S 01°44'10" E, a distance of 541.13 feet to a point for
16 corner of the herein described tract;

17 S 87°49'15" W, a distance of 455.56 feet to a point for
18 an interior corner of the herein described tract;

19 S 01°52'18" E, a distance of 2,162.71 feet to an angle
20 point of the herein described tract;

21 S 10°26'41" W, a distance of 1,258.99 feet to a point
22 for corner of the herein described tract;

23 S 85°40'34" W, a distance of 610.17 feet to a point for
24 an interior corner of the herein described tract;

25 S 22°15'26" W, a distance of 858.89 feet to a point for
26 corner of the herein described tract;

27 S 78°54'43" W, a distance of 719.66 feet to a point for

1 the Southernmost corner of the herein described tract, lying on the
2 line common to said H. & T.C. R.R. Co. Survey, Abstract No. 267 and
3 the A.G. Penn Survey, Abstract No. 764;

4 THENCE, N 01°48'36" W, along and with said common line, a
5 distance of 30.17 feet to the common corner of said H. & T.C. R.R.
6 Co. Survey, Abstract No. 267, said A.G. Penn Survey, Abstract
7 No. 764, said G.C. & S.F. R.R. Co. Survey, Abstract No. 463 and the
8 J. Ross Survey, Abstract No. 806, same being an angle point of the
9 herein described tract;

10 THENCE, N 02°12'38" W, along and with the West line of said
11 G.C. & S.F. R.R. Co. Survey, Abstract No. 463, the remainder of said
12 39th Tract, and said the remainder of said 37th Tract, a distance
13 of 4,049.42 feet to a point for corner of the remainder of said 37th
14 Tract and the herein described tract, same being the Southwest
15 corner of a called 1.000-acre tract of land, designated Tract 6,
16 described in an instrument to Ray E. Stoesser, et ux, recorded under
17 L.C.C.F. No. 2014019951;

18 THENCE, along and with the lines common to the remainder of
19 said 37th Tract and said 1.000-acre tract, the following courses
20 and distances:

21 N 87°47'22" E, a distance of 208.71 feet to a point for
22 the Southeast corner of said 1.000-acre tract and an interior
23 corner of the herein described tract;

24 N 02°12'38" W, a distance of 208.71 feet to a point for
25 the Northeast corner of said 1.000-acre tract and an interior
26 corner of the herein described tract;

27 S 87°47'22" W, a distance of 208.71 feet to a point for

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1 the Northwest corner of said 1.000-acre tract, same being a common
2 corner of said 37th Tract and the herein described tract;

3 THENCE, N 02°12'38" W, along and with the West line of the
4 remainder of said 37th Tract, a distance of 30.00 feet to a point
5 for corner lying on South line of said 60th Tract;

6 THENCE, S 88°22'49" W, along and with the South line of said
7 60th Tract, said 55th Tract, and said 56th Tract, a distance of
8 1,885.45 feet to the South common corner of said 56th Tract and the
9 remainder of said 66th Tract, same being an angle point of the
10 herein described tract;

11 THENCE, along and with the South line of the remainder of said
12 66th Tract, the following courses and distances:

13 S 89°38'05" W, a distance of 1,049.76 feet to an angle
14 point of the herein described tract;

15 S 87°54'35" W, a distance of 963.09 feet to a point for
16 corner the herein described tract, being the Southeast corner of
17 said 85.63-acre tract;

18 THENCE, N 02°04'22" W, along and with an East line of said
19 85.63-acre tract, same being the West lines of the remainder of said
20 66th Tract and the remainder of said 100-acre tract, a distance of
21 7,074.86 feet to the POINT OF BEGINNING and containing 820.0 acres
22 of land (Gross), SAVE & EXCEPT a called 5-acre tract of land,
23 designated 55th Tract, Second Tract, described in an instrument to
24 Stoesser Farms, Inc. recorded under Volume 601, Page 541 D.R.L.C.
25 leaving a net acreage of 815.0 acres of land.

26 Bearing orientation is based on the Texas Coordinate System
27 of 1983 (NAD83), South Central Zone 4204 and is referenced to deed

1 bearings of the West lines of said 519.20-acre tract of land as
2 cited herein.

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

10 (b) The governor, one of the required recipients, has
11 submitted the notice and Act to the Texas Commission on
12 Environmental Quality.

13 (c) The Texas Commission on Environmental Quality has filed
14 its recommendations relating to this Act with the governor, the
15 lieutenant governor, and the speaker of the house of
16 representatives within the required time.

17 (d) All requirements of the constitution and laws of this
18 state and the rules and procedures of the legislature with respect
19 to the notice, introduction, and passage of this Act are fulfilled
20 and accomplished.

21 SECTION 4. (a) If this Act does not receive a two-thirds
22 vote of all the members elected to each house, Subchapter C, Chapter
23 8049, Special District Local Laws Code, as added by Section 1 of
24 this Act, is amended by adding Section 8049.0307 to read as follows:

25 Sec. 8049.0307. NO EMINENT DOMAIN POWER. The district may
26 not exercise the power of eminent domain.

27 (b) This section is not intended to be an expression of a

1 legislative interpretation of the requirements of Section 17(c),
2 Article I, Texas Constitution.

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