

By: Kolkhorst

S.B. No. 2473

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Waller County Municipal Utility
3 District No. 34; granting a limited power of eminent domain;
4 providing authority to issue bonds; providing authority to impose
5 assessments, fees, and taxes.

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

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 8046 to read as follows:

9 CHAPTER 8046. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 34

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8046.0101. DEFINITIONS. In this chapter:

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

13 (2) "Commission" means the Texas Commission on
14 Environmental Quality.

15 (3) "Director" means a board member.

16 (4) "District" means the Waller County Municipal
17 Utility District No. 34.

18 Sec. 8046.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 8046.0103. CONFIRMATION AND DIRECTOR ELECTION
22 REQUIRED. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five permanent
24 directors as provided by Section 49.102, Water Code.

1 Sec. 8046.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8046.0103 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. 8046.0105. 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. 8046.0106. 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. 8046.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8046.0202, directors
6 serve staggered four-year terms.

7 Sec. 8046.0202. 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 8046.0103; 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 8046.0103 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 8046.0103; 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. 8046.0301. 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. 8046.0302. 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. 8046.0303. 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. 8046.0304. 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. 8046.0305. 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. 8046.0306. 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 creating 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 8046.0103 to confirm the district's creation.

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 8046.0103.

21 (i) Municipal consent to the creation of the district and to
22 the inclusion of land in the district granted under Section
23 8046.0104 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. 8046.0401. 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 8046.0403.

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. 8046.0402. OPERATION AND MAINTENANCE TAX. (a) If

21 authorized at an election held under Section 8046.0401, 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. 8046.0403. 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. 8046.0501. 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. 8046.0502. 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. 8046.0503. 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 Waller County Municipal Utility District No.

1 34 initially includes all the territory contained in the following
2 area:

3 A METES & BOUNDS description of a certain 3,791 acre
4 (165,143,925 square feet) tract of land situated in the W.
5 McCutchen (H. & T.C. R.R. Co.) Survey, Abstract No. 312, H. & T.C.
6 R.R. Co. Survey, Abstract No. 145, W. McCutchen (H. & T.C. R.R. Co.)
7 Survey, Abstract No. 315, H. & T.C. R.R. Co. Survey, Abstract
8 No. 193, W. McCutchen (H. & T.C. R.R. Co.) Survey, Abstract
9 No. 309, H. & T.C. R.R. Co. Survey, Abstract No. 192, H. & T.C. R.R.
10 Co. Survey, Abstract No. 188, J. McCutchen (H. & T.C. R.R. Co.)
11 Survey, Abstract No. 307, and the E. Wright (H. & T. R.R. Co.)
12 Survey, Abstract No. 381 in Waller County, Texas, being all of a
13 called 640 acre tract conveyed to Margaret Sager Pfeffer Estate
14 Trust by Deed recorded in Volume 271, Page 308, Waller County Deed
15 Records, being all of a called 640 acre tract conveyed to Adolph and
16 Noelie Pfeffer Family Partnership One, Ltd. and Adolph and Noelie
17 Pfeffer Family Partnership Two, Ltd. by Special Warranty Deed
18 recorded in Volume 1284, Page 133, Waller Official Public Records
19 of Real Property, being all of a called 823.996 acre tract conveyed
20 to Adolph A . Pfeffer Sr., Trustee, of the Margaret Sager Pfeffer
21 Estate Trust by Warranty Deed recorded in Volume 297, Page 825,
22 Waller County Deed Records, being all of a called 320 acre tract
23 conveyed to Cochran Road Partners, LLC by Special Warranty Deed
24 recorded in Volume 1212, Page 399, Waller County Deed Records,
25 being all of a called 640 acre tract conveyed to Cochran Road
26 Partners, LLC by Special Warranty Deed recorded in Volume 1212,
27 Page 399, Waller County Deed Records, being all of a called 152 acre

1 tract conveyed to Cochran Road Partners, LLC by Special Warranty
2 Deed recorded in Volume 1212, Page 399, Waller County Official
3 Public Records of Real Property, being all of a called 80.741 acre
4 tract conveyed to Adolph A Pfeffer, Jr., Trustee, of the Margaret
5 Sager Pfeffer Estate Trust by Warranty Deed recorded in Volume 570,
6 Page 822, Waller County Deed Records, being all of a called 40 acre
7 (Tract 6) tract conveyed to Adolph Pfeffer by Deed recorded in
8 Volume 350, Page 5, Waller County Deed Records, being all of a
9 called 40 acre (Tract 7) tract conveyed to Adolph Pfeffer by Deed
10 recorded in Volume 350, Page 5, Waller County Deed Records, being
11 all of a called 119.5 acre (being 159.5 acres less 40 acres) tract
12 conveyed to Adolph Pfeffer by Deed recorded in Volume 350, Page 5,
13 Waller County Deed Records, being all of Lot 6 (called Tract 1)
14 conveyed to Adolph Pfeffer by Partition Deed recorded in Volume
15 350, Page 5, Waller County Deed Records, being all of Lot 7 (called
16 Tract 2) conveyed to Adolph Pfeffer by Partition Deed recorded in
17 Volume 350, Page 5, Waller County Deed Records, being all of Lot 8
18 (called Tract 3) conveyed to Adolph Pfeffer by Partition Deed
19 recorded in Volume 350, Page 5, Waller County Deed Records, being
20 all of Lot 9 (called Tract 4) conveyed to Adolph Pfeffer by
21 Partition Deed recorded in Volume 350, Page 5, Waller County Deed
22 Records, being the residue of a called 20.00 acre tract conveyed to
23 Adolph A. Pfeffer by Special Warranty Deed recorded in Volume 1109,
24 Page 001, Waller County Official Public Records of Real Property,
25 and being a portion of tracts conveyed to Adolph A. Pfeffer by deed
26 recorded in Volume 119, Page 113 Waller County Deed Records; said
27 3,791-acre (165,143,925 square feet) tract of land being more

1 particularly described as follows with all bearings being based on
2 the Texas Coordinate System, South Central Zone, NAD 83:

3 BEGINNING at a point being the southeast corner of said
4 called 640 acre tract conveyed to Margaret Sager Pfeffer Estate
5 Trust;

6 THENCE, North 90°00'00" West, 5,280.00 feet to a point for a
7 corner being the southwest corner of said called 640 acre tract
8 conveyed to Margaret Sager Pfeffer Estate Trust;

9 THENCE, North 00°00'00" West, 2,640.00 feet to a point for
10 corner being in the west line of said called 640 acre tract conveyed
11 to Margaret Sager Pfeffer Estate Trust and being the southeast
12 corner of said called 320 acre tract;

13 THENCE, North 90°00'00" West, 5,280.00 feet to a point for
14 corner being the southwest corner of said called 320 acre tract;

15 THENCE, North 00°00'00" East, 2,728.33 feet to a point for
16 corner being the northwest corner of said called 320 acre tract,
17 being the southwest corner of said called 640 acre tract conveyed to
18 Cochran Road Partners, LLC, and being the southeast corner of said
19 called Volume 119, Page 113;

20 THENCE, North 90°00'00" West, 761.11 feet to a point for
21 corner being in the south line of said called Volume 119, Page 113;

22 THENCE, South 89°36'31" West, 1,319.30 feet to a point for
23 corner being the southwest corner of said called Volume 119, Page
24 113 and being the southeast corner of said called 80.741 acre tract;

25 THENCE, North 89°37'42" West, 1,843.37 feet to a point for
26 corner being the southwest corner of said called residue of a called
27 20.00 acre tract;

1 THENCE, North 00°22'16" East, 1,105.28 feet to a point for
2 corner being in the west line of said called residue of a called 20
3 acre tract;

4 THENCE, South 89°37'43" East, 500.54 feet to a point for
5 corner being in the west line of said called 80.741 acre tract and
6 being in the east line of said called residue of a called 20.00 acre
7 tract;

8 THENCE, North 01°24'32" West, 391.93 feet to a point for
9 corner being in the west line of said called 80.741 acre tract and
10 being in the east line of said called residue of a called 20.00 acre
11 tract;

12 THENCE, North 01°16'47" East, 33.21 feet to a point for corner
13 being in the west line of said called 80.741 acre tract and being in
14 the east line of said called residue of a called 20.00 acre tract;

15 THENCE, North 89°37'43" West, 488.89 feet to a point for
16 corner being in the west line of said called residue of a called
17 20.00 acre tract;

18 THENCE, North 00°22'21" East, 189.43 feet to a point for
19 corner being the northwest corner of said called residue of a called
20 20.00 acre tract;

21 THENCE, South 89°37'43" East, 491.89 feet to a point for
22 corner being in the west line of said called 80.741 acre tract and
23 being the northeast corner of said called residue of a called 20.00
24 acre tract;

25 THENCE, North 01°16'47" East, 926.49 feet to a point for
26 corner being the northwest corner of said called 80.741 acre tract
27 and being the most northerly southwest corner of said called Volume

1 119, Page 113;

2 THENCE, North 00°00'00" West, 1,223.80 feet to a point for
3 corner being the southeast corner of said called Tract 6 and being
4 in the west line of said called Volume 119, Page 113;

5 THENCE, North 90°00'00" West, 2,638.89 feet to a point for
6 corner being the southwest corner of said called Tract 7;

7 THENCE, North 00°00'00" West, 1,322.22 feet to a point for
8 corner being the northwest corner of said called Tract 7;

9 THENCE, North 90°00'00" East, 530.56 feet to a point for
10 corner being in the north line of said called Tract 7 and being the
11 southwest corner of said called 119.5 acre tract;

12 THENCE, North 00°00'00" West, 2,516.67 feet to a point for
13 corner being the northwest corner of said called 119.5 acre tract;

14 THENCE, North 89°54'50" East, 2,773.34 feet to a point for
15 corner being the northeast corner of said called 119.5 acre tract,
16 being the southwest corner of said called Lot 6, and being the
17 northwest corner of said called Lot 7;

18 THENCE, North 00°00'00" West, 840.28 feet to a point for
19 corner being the northwest corner of said called Lot 6;

20 THENCE, North 90°00'00" East, 2,735.00 feet to a point for
21 corner being the northeast corner of said called Lot 6;

22 THENCE, South 00°00'00" West, 869.44 feet to a point for
23 corner being the southeast corner of said called Lot 6, being the
24 northeast corner of said called Lot 7, and being the northwest
25 corner of said called 152 acre tract;

26 THENCE, North 90°00'00" East, 2,657.30 feet to a point for
27 corner being the northeast corner of said called 152 acre tract;

1 THENCE, South 00°00'00" East, 2,491.67 feet to a point for
2 corner being the southeast corner of said called 152 acre tract and
3 being in the north line of said called 640 acre tract conveyed to
4 Cochran Road Partners, LLC;

5 THENCE, North 90°00'00" East, 2,622.70 feet to a point for
6 corner being the northeast corner of said called 640 acre tract
7 conveyed to Cochran Road Partners, LLC, being the northwest corner
8 of said called 640 acre tract conveyed to Adolph and Noelie Pfeffer
9 Family Partnership One, Ltd. and Adolph and Noelie Pfeffer Family
10 Partnership Two, Ltd., and being the southwest corner of said
11 called 823.996 acre tract;

12 THENCE, North 00°04'31" East, 4,548.22 feet to a point for
13 corner being in the west line of said called 823.996 acre tract;

14 THENCE, North 11°22'24" West, 128.93 feet to a point for
15 corner being in the west line of said called 823.996 acre tract;

16 THENCE, North 00°21'45" East, 459.44 feet to a point for
17 corner being the northwest corner of said called 823.996 acre
18 tract;

19 THENCE, South 89°56'04" East, 2,814.86 feet to a point for
20 corner being the most northerly northeast corner of said called
21 823.996 acre tract;

22 THENCE, South 16°12'54" East, 1,715.81 feet to a point being
23 an interior corner of said called 823.996 acre tract;

24 THENCE, South 81°28'25" E, 2,000.00 feet to a point for corner
25 being the most southerly northeast corner of said called 823.996
26 acre tract;

27 THENCE, South 00°06'10" East, 13,746.77 feet to the POINT OF

1 BEGINNING, CONTAINING 3,791 acres (165,143,925 square feet) of land
2 in Waller County, Texas filed in the office of Manhard Consulting,
3 Ltd. in The Woodlands, Texas.

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

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

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

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

22 SECTION 4. (a) If this Act does not receive a two-thirds
23 vote of all the members elected to each house, Subchapter C, Chapter
24 8046, Special District Local Laws Code, as added by Section 1 of
25 this Act, is amended by adding Section 8046.0307 to read as follows:

26 Sec. 8046.0307. NO EMINENT DOMAIN POWER. The district may
27 not exercise the power of eminent domain.

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

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