

House Bill 4674
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8039 to read as follows:
CHAPTER 8039. CHAMBERS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2
SUBCHAPTER A. GENERAL PROVISIONS
Sec. 8039.0101. 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 Chambers County Municipal Utility District No. 2.
Sec. 8039.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.
Sec. 8039.0103. 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.
Sec. 8039.0104. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8039.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.
Sec. 8039.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.
(b) The district is created to accomplish the purposes of:
(1) a municipal utility district as provided by general law and

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Section 59, Article XVI, Texas Constitution; and
(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads. Sec. 8039.0106. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.
(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:
(1) organization, existence, or validity;
(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;
(3) right to impose a tax; or
(4) legality or operation.
SUBCHAPTER B. BOARD OF DIRECTORS
Sec. 8039.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.
(b) Except as provided by Section 8039.0202, directors serve staggered four-year terms.
Sec. 8039.0202. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, 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 temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.
(b) Temporary directors serve until the earlier of:

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(1) the date permanent directors are elected under Section 8039.0103; or

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

(c) If permanent directors have not been elected under Section 8039.0103 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8039.0103; or

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

(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. 8039.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8039.0302. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. 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.

Sec. 8039.0303. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district

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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. 8039.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

Sec. 8039.0305. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8039.0401. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8039.0403.

(b) The district must hold an election in the manner provided

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by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

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

Sec. 8039.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8039.0401, 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. 8039.0403. 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. 8039.0501. 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.

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district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8039.0503. BONDS FOR ROAD PROJECTS. 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 the real property in the district.

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Sec. 8039.0601. RESIDENCE HOMESTEAD EXEMPTION REQUIRED. The board shall adopt an exemption from ad valorem taxation by the district of a portion of the appraised value of a district resident's residence homestead as provided by Section 11.13(d), Tax Code, if the board determines that the adoption of the exemption does not increase or impair a reduction of the district's total tax rate for the residence homestead for the year in which the exemption is adopted compared to the district's total tax rate for the residence homestead for the preceding year.

SECTION 2. The Chambers County Municipal Utility District No. 2 initially includes all the territory contained in the following area:

Being a 363.441 acre tract of land located in the B. Winfree Survey, Abstract No. 28, Chambers County, Texas; said 363.441 acre tract being all of a called 171.900 acre tract of land (Tract 1) and all of a called 191.541 acre tract of land (Tract 2) recorded in the name of Ameriport, LLC. in

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district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8039.0503. BONDS FOR ROAD PROJECTS. 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 the real property in the district.

SECTION 2. Same as House version.

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Document No. 2018-134001 of the Official Public Records of Chambers County (O.P.R.C.C.); said 363.441 acre tract being more particularly described as Tract 1 and Tract 2 by metes and bounds as follows (all bearings are referenced to the Texas Coordinate System, North American Datum 1983 (NAD 83), South Central Zone):

Tract 1:

Beginning at a called 5/8-inch iron rod at the northeast corner of said 171.900 acre tract and the northwest corner of a called 43.23 acre tract of land recorded in the name of Guy Pfitzner in Volume 1573, Page 416 of the O.P.R.C.C., and being on the southerly line of a called 254.14 acre tract of land recorded in the name of Grand Parkway/Kilgore Parkway, L.P. in Volume 1067, Page 264 of the O.P.R.C.C.;

1. Thence, with the easterly line of said 171.900 acre tract and the westerly line of said 43.23 acre tract, South 02 degrees 47 minutes 36 seconds East, a distance of 2,995.19 feet to the southeast corner of said 171.900 acre tract and the southwest corner of said 43.23 acre tract, and being on the northwesterly right-of-way line of FM 565 (width varies) as recorded in Volume 121, Page 151 and 214 and Volume 978, Page 325 of the C.C.D.R.;

2. Thence, with the southeasterly line of said 171.900 acre tract and said northwesterly right-of-way line of FM 565, South 50 degrees 13 minutes 52 seconds West, a distance of 856.17 feet;

3. Thence, continuing with said southeasterly line of the 171.900 acre tract and said northwesterly right-of-way line of FM 565, South 50 degrees 17 minutes 52 seconds West, a distance of 1,904.70 feet to the southwesterly corner of said 171.900 acre tract and being at the intersection with the northeasterly right-of-way line of Needlepoint Road (width

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varies);

4. Thence, with the westerly line of said 171.900 acre tract and said easterly right-of-way line of Needlepoint Road, North 28 degrees 59 minutes 14 seconds West, a distance of 214.63 feet to the most southerly corner of a called 27.650 acre tract of land recorded in the name of State of Texas in Volume 570, Page 546 and Volume 899, Page 415 of the O.P.R.C.C., and being on the easterly right-of-way line of State Highway 99 (Grand Parkway) (width varies);

Thence, with the westerly line of said 171.900 acre tract and said easterly right-of-way line of State Highway 99, the following five (5) courses:

5. North 08 degrees 03 minutes 08 seconds West, a distance of 169.59 feet;

6. North 16 degrees 55 minutes 00 seconds East, a distance of 766.59 feet;

7. 679.78 feet along the arc of a curve to the left, said curve having a central angle of 19 degrees 28 minutes 27 seconds, a radius of 2,000.00 feet and a chord that bears North 07 degrees 10 minutes 49 seconds East, a distance of 676.51 feet;

8. North 02 degrees 33 minutes 28 seconds West, a distance of 1,718.97 feet;

9. 1,206.61 feet along the arc of a curve to the right, said curve having a central angle of 10 degrees 02 minutes 11 seconds, a radius of 6,888.29 feet and a chord that bears North 02 degrees 27 minutes 38 seconds East, a distance of 1,205.07 feet to the northwest corner of aforesaid 171.900 acre tract and the southwest corner of aforesaid 254.14 acre tract;

10. Thence, with the northerly line of said 171.900 acre tract and the southerly line of said 254.14 acre tract, North 87 degrees 39 minutes 30 seconds East, a distance of 1,824.19 feet to the Point of Beginning and containing 171.900 acres of

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land in Tract 1.

Tract 2:

Beginning at a called 5/8-inch iron rod at the southwest corner of aforesaid 191.541 acre tract and the northwest corner of a called 1.228 acre tract of land recorded in the name of Johland Investments, LLC. in Volume 1704, Page 156 of the O.P.R.C.C., and being on the northeasterly right-of-way line of FM 2354 (120.00-foot wide) as recorded in Volume 191, Page 542 of the Chambers County Deed Records (C.C.D.R.);

1. Thence, with the southwesterly line of said 191.541 acre tract and said northeasterly right-of-way line of FM 2354, 485.65 feet along the arc of a curve to the left, said curve having a central angle of 04 degrees 51 minutes 23 seconds, a radius of 5,729.58 feet and a chord that bears North 37 degrees 33 minutes 03 seconds West, a distance of 485.51 feet;

2. Thence, continuing with said southwesterly line of the 191.541 acre tract and said northeasterly right-of-way line of FM 2354, North 40 degrees 38 minutes 16 seconds West, a distance of 857.53 feet to the southerly end of a cutback corner at the intersection with the southeasterly right-of-way line of aforesaid FM 565;

3. Thence, with said cutback, North 13 degrees 53 minutes 15 seconds West, a distance of 111.07 feet to the northerly end of said cutback;

4. Thence, with the northwesterly line of said 191.541 and said southeasterly right-of-way line of FM 565, North 50 degrees 17 minutes 52 seconds East, a distance of 1,842.85 feet;

5. Thence, continuing with said northwesterly line of the 191.541 acre tract and said southeasterly right-of-way line, North 50 degrees 13 minutes 52 seconds East, a distance of

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1,471.18 feet to the most northerly corner of said 191.541 acre tract and the westerly corner of Tiffany Acres Section 2, a subdivision recorded in Volume A, Page 243 of the Chambers County Map Records (C.C.M.R.);

6. Thence, with the northeasterly line of said 191.541 acre tract, the southwesterly line of said Tiffany Acres Section 2, and the southwesterly line of a called 2.000 acre tract of land recorded in the name of David Michael McAdams and Jodie L. McAdams in Volume 662, Page 363 of the O.P.R.C.C., South 39 degrees 41 minutes 39 seconds East, a distance of 2,744.85 feet to the most easterly northeast corner of said 191.541 acre tract and the southerly corner of said 2.000 acre tract, and being on the westerly line of a called 2.000 acre tract of land recorded in the name of Norberto Pagan and Delia Pagan in Volume 236, Page 460 of the O.P.R.C.C.;

7. Thence, with the easterly line of said 191.541 acre tract, the westerly line of said 2.000 acre tract, the westerly line of a called 1.000 acre tract of land recorded in the name of Valentin Garcia and Hilda A. Garcia in Volume 236, Page 474 of the O.P.R.C.C., the westerly line of a called 1.000 acre tract of land recorded in the name of Wyman Tod Stephens in Volume 1215, Page 524 of the O.P.R.C.C., the westerly line of a called 2.00 acre tract of land recorded in the name of Graciela Hurtado Reyna in Volume 1502, Page 625 of the O.P.R.C.C., and the westerly line of a called 1.9912 acre tract of land recorded in the name of Dennis Ray Peting and Drena Lee Peting in Volume 150, Page 218 of the O.P.R.C.C., South 02 degrees 45 minutes 29 seconds East, a distance of 637.48 feet to the most easterly southeast corner of said 191.541 acre tract and the northeast corner of a called 7.965 acre tract recorded in the name of NEQ Investments, LLC. in Volume 952, Page 729 of the O.P.R.C.C.;

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8. Thence, with the southerly line of said 191.541 acre tract and the northerly line of said 7.965 acre tract, South 86 degrees 48 minutes 29 seconds West, a distance of 1,085.42 feet to an interior corner of said 191.541 acre tract and the northwest corner of said 7.965 acre tract;

9. Thence, with an easterly line of said 191.541 acre tract and the westerly line of said 7.965 acre tract, South 03 degrees 11 minutes 31 seconds East, a distance of 320.00 feet to the most southerly southeast corner of said 191.541 acre tract, the southwest corner of said 7.965 acre tract, and the northeast corner of a called 8.66 acre tract of land recorded in the name of David L. Gamble in Volume 337, Page 419 of the O.P.R.C.C.;

10. Thence, with the southerly line of said 191.541 acre tract, the northerly line of said 8.66 acre tract, the northerly line of a called 1.7 acre tract recorded in the name of General Telephone Company (Verizon Communications-Texas) in Volume 307, Page 642 of the O.P.R.C.C., the northerly line of a called 2.1681 acre tract of land recorded in the name of David Schaffer and wife, Donna Schaffer in Volume 27, Page 509 of the O.P.R.C.C., and the northerly line of aforesaid 1.228 acre tract, South 86 degrees 48 minutes 29 seconds West, a distance of 2,389.16 feet to the Point of Beginning and containing 191.541 acres of land in Tract 2.

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

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Chapter 313, Government Code.

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

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

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

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8039, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8039.0306 to read as follows:

Sec. 8039.0306. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

SECTION 5. If S.B. No. 239, Acts of the 86th Legislature, Regular Session, 2019, does not become law, Subchapter F, Chapter 8039, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8039.0602 to read as follows:

Sec. 8039.0602. BOARD MEETING LOCATION. The

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SECTION 4. Same as House version.

No equivalent provision.

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board shall designate a place inside the district for conducting the meetings of the board. If the board is unable to designate a suitable meeting place inside the district, the board may designate a place outside the district that is located not farther than 10 miles from the district's boundaries.

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

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SECTION 5. Same as House version.

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