

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 21, 2021

The Honorable Dan Patrick
Lieutenant Governor of Texas
Capitol Station
PO Box 12068
Austin, Texas 78711

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

Senate Bill (SB) 2258, as Filed by Senator Drew Springer - Relating to the creation of the Clear Sky Municipal Utility District of Denton County; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

Dear Governor Patrick:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Sincerely,


Cari-Michel La Caille, Director
Water Supply Division

cc: Honorable Paul Bettencourt, Chairman, Senate Local Government Committee
Senator Drew Springer, Texas Senate

Enclosure

**SB 2258, as Filed by Senator Drew Springer
Texas Commission on Environmental Quality's Comments**

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ), has determined that:

This bill creates Clear Sky Municipal Utility District of Denton County (District) with the powers and duties of a standard municipal utility district under Water Code Chapters 49 and 54.

Comments on Powers/Duties Different from Similar Types of Districts: The District must receive consent to the creation of the District from each municipality in whose corporate limits or extraterritorial jurisdiction the District is located prior to holding a confirmation election. The bill grants the District authority for road projects. The bill specifies that 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 real property in the District. If the bill does not receive a two-thirds vote of all members elected to each house, the District may not exercise the power of eminent domain.

Overlapping Services: TCEQ does not have mapping information for water and/or wastewater providers because this function was transferred from the TCEQ to the Public Utility Commission on September 1, 2014. As a result, TCEQ is unaware of possible overlapping service providers.

TCEQ's Supervision: As with general law districts, the TCEQ will have general supervisory authority, including bond review authority and review of financial reports.

LETTER OF TRANSMITTAL
TEXAS SENATE
STATE OF TEXAS

SB 2258

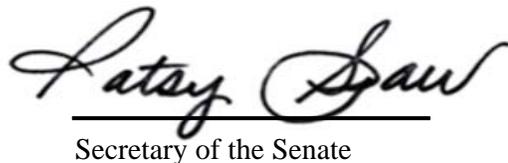
Bill Number

TO: The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

5/14/2021

Date transmitted to
Governor's Office



Secretary of the Senate

TO: Texas Commission on Environmental Quality
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to conservation and reclamation district and a copy of the notice of intention to introduce the bill.

May 14, 2021

Date transmitted to
Texas Commission on Environmental Quality



Governor

TO: The Honorable President of the Senate
The Honorable Speaker of the House of Representatives
The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.



Texas Commission on Environmental Quality

By: Springer

S.B. No. 2258

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Clear Sky Municipal Utility
3 District of Denton County; granting a limited power of eminent
4 domain; providing authority to issue bonds; providing authority to
5 impose 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 7948A to read as follows:

9 CHAPTER 7948A. CLEAR SKY MUNICIPAL UTILITY DISTRICT OF DENTON

10 COUNTY

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 7948A.0101. DEFINITIONS. In this chapter:

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

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

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

17 (4) "District" means the Clear Sky Municipal Utility
18 District of Denton County.

19 Sec. 7948A.0102. NATURE OF DISTRICT. The district is a
20 municipal utility district created under Section 59, Article XVI,
21 Texas Constitution.

22 Sec. 7948A.0103. CONFIRMATION AND DIRECTOR ELECTION
23 REQUIRED. The temporary directors shall hold an election to
24 confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 7948A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 7948A.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 7948A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

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

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

17 Sec. 7948A.0106. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

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

24 (1) organization, existence, or validity;

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

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 7948A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7948A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7948A.0202. TEMPORARY DIRECTORS. (a) The temporary
9 board consists of:

10 (1) Manolo "Manny" Rios;

11 (2) David "Mike" Boswell;

12 (3) Ronald Eric Robbins;

13 (4) Grant Walsh Devlin; and

14 (5) Demerius "Dee" Seals.

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

16 (1) the date permanent directors are elected under
17 Section 7948A.0103; or

18 (2) September 1, 2025.

19 (c) If permanent directors have not been elected under
20 Section 7948A.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 7948A.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. 7948A.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. 7948A.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. 7948A.0303. AUTHORITY FOR ROAD PROJECTS. Under
18 Section 52, Article III, Texas Constitution, the district may
19 design, acquire, construct, finance, issue bonds for, improve,
20 operate, maintain, and convey to this state, a county, or a
21 municipality for operation and maintenance macadamized, graveled,
22 or paved roads, or improvements, including storm drainage, in aid
23 of those roads.

24 Sec. 7948A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road project is located.

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

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

10 Sec. 7948A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
11 ORDINANCE OR RESOLUTION. The district shall comply with all
12 applicable requirements of any ordinance or resolution that is
13 adopted under Section 54.016 or 54.0165, Water Code, and that
14 consents to the creation of the district or to the inclusion of land
15 in the district.

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 7948A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
18 The district may issue, without an election, bonds and other
19 obligations secured by:

- 20 (1) revenue other than ad valorem taxes; or
21 (2) contract payments described by Section
22 7948A.0403.

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

27 (c) The district may not issue bonds payable from ad valorem

1 taxes to finance a road project unless the issuance is approved by a
2 vote of a two-thirds majority of the district voters voting at an
3 election held for that purpose.

4 Sec. 7948A.0402. OPERATION AND MAINTENANCE TAX. (a) If
5 authorized at an election held under Section 7948A.0401, the
6 district may impose an operation and maintenance tax on taxable
7 property in the district in accordance with Section 49.107, Water
8 Code.

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

11 Sec. 7948A.0403. CONTRACT TAXES. (a) In accordance with
12 Section 49.108, Water Code, the district may impose a tax other than
13 an operation and maintenance tax and use the revenue derived from
14 the tax to make payments under a contract after the provisions of
15 the contract have been approved by a majority of the district voters
16 voting at an election held for that purpose.

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

20 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

21 Sec. 7948A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
22 OBLIGATIONS. The district may issue bonds or other obligations
23 payable wholly or partly from ad valorem taxes, impact fees,
24 revenue, contract payments, grants, or other district money, or any
25 combination of those sources, to pay for any authorized district
26 purpose.

27 Sec. 7948A.0502. TAXES FOR BONDS. At the time the district

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

6 Sec. 7948A.0503. BONDS FOR ROAD PROJECTS. At the time of
7 issuance, the total principal amount of bonds or other obligations
8 issued or incurred to finance road projects and payable from ad
9 valorem taxes may not exceed one-fourth of the assessed value of the
10 real property in the district.

11 SECTION 2. The Clear Sky Municipal Utility District of
12 Denton County initially includes all the territory contained in the
13 following area:

14 BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE T. CHAMBERS,
15 ABSTRACT NUMBER 223, AND BEING A PORTION OF A TRACT OF LAND TO
16 AUBREY 64 NORTH LP, A TEXAS LIMITED PARTNERSHIP, RECORDED IN
17 INSTRUMENT NUMBER 2020-3173 OF THE OFFICIAL PUBLIC RECORDS OF
18 DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY
19 METES AND BOUNDS AS FOLLOWS:

20 BEGINNING AT THE SOUTHEAST CORNER OF SAID AUBREY 64 NORTH TRACT WITH
21 A CURVE TO THE LEFT, AN ARC DISTANCE OF 62.71 FEET, THROUGH A
22 CENTRAL ANGLE OF 00° 40' 50", HAVING A RADIUS OF 5,280.00 FEET, AND A
23 LONG CHORD WHICH BEARS N 88° 15' 25" W, 62.71 FEET;

24 THENCE N 88° 35' 50" W, 3237.22 FEET;

25 THENCE N 01° 32' 58" E, 894.59 FEET;

26 THENCE S 88° 39' 54" E, 1967.25 FEET;

27 THENCE S 01° 48' 01" W, 325.45 FEET;

1 THENCE S 87° 02' 21" E, 447.69 FEET;
2 THENCE N 89° 38' 44" E, 718.09 FEET;
3 THENCE S 85° 43' 18" E, 164.97 FEET;
4 THENCE S 01° 38' 33" W, 65.30 FEET;
5 THENCE S 01° 13' 27" E, 100.10 FEET;
6 THENCE S 01° 38' 33" W, 408.13 FEET TO THE POINT OF BEGINNING AND
7 CONTAINING 2,520,613 SQUARE FEET OR 57.865 ACRES OF LAND MORE OR
8 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 7948A, Special District Local Laws Code, as added by Section 1 of
3 this Act, is amended by adding Section 7948A.0306 to read as
4 follows:

5 Sec. 7948A.0306. NO EMINENT DOMAIN POWER. The district may
6 not exercise the power of eminent domain.

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

10 SECTION 5. This Act takes effect September 1, 2021.

PUBLISHER'S AFFIDAVIT

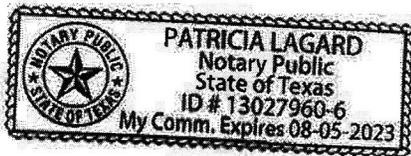
STATE OF TEXAS

COUNTY OF DENTON

Before me, a Notary Public in and for Denton County, this day personally appeared Alice McConnaughey, Authorized Designee, Denton Record-Chronicle, who, being duly sworn, states that the following advertisement paid for by COATS | ROSE was published in the Denton Record-Chronicle on February 14, 2021:

Alice McConnaughey
(signature of affiant)

Sworn to and subscribed before me this 23rd day of February, 2021.



Patricia La Gard
(signature of notary)

(Here affix a copy of the advertisement. If the advertisement is too large to be affixed in the space allowed, substitute "attached" for "following" in the introduction and affix a copy of the advertisement on a page to be attached.)

NOTICE OF INTENT TO INTRODUCE A BILL
This is to give notice of intent to introduce in the 87th Legislature, Regular Session, a bill to be entitled an Act relating to the creation, administration, powers, duties, operation, and financing of Clear Sky Municipal Utility District of Denton County. The costs for the publication of the notice were paid by Coats Rose.
The Act proposes to create a special district to be known as Clear Sky Municipal Utility District of Denton County, being approximately 60 acres of land located in unincorporated Denton County, Texas more particularly described as follows:
The tract lies wholly in Denton County and is bound by Texas Farm to Market Road 2831 to the East. There are no identified road boundaries to the North, South or West, however, in general, the tract's western boundary is roughly 0.60 miles from FM 2831. This tract encompasses approximately 60 acres.
All interested persons will, therefore, take notice of the matters and facts set out in the foregoing statement of the substance of the contemplated laws as required by the Constitution and laws of the State of Texas.
Dtr-02/14/2021

DRC MEDIA COMPANY

NEWS & ADVERTISING SOLUTIONS
One company delivers it all.

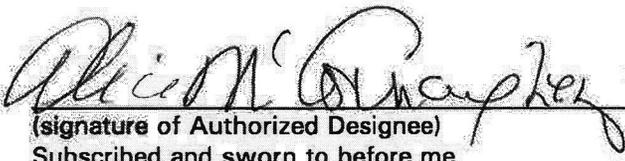
3555 Duchess Drive
P.O. Box 369
Denton, TX 76202
940-387-3811

Publication(s): Denton Record-Chronicle

PROOF OF PUBLICATION

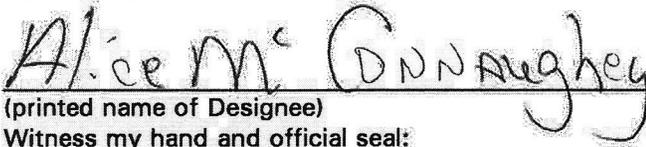
Being duly sworn (s)he is the Publisher/authorized designee of Denton Record-Chronicle, in City of Denton/surrounding areas in Denton County; Newspaper of general circulation which has been continuously and regularly published for a period of not less than one year preceding the date of the attached notice, and that the said notice was published in said newspaper Denton Record-Chronicle on the following dates below:

02/14/2021



(signature of Authorized Designee)

Subscribed and sworn to before me
this 14th day of February, 2021 by

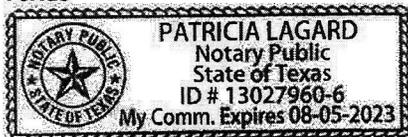


(printed name of Designee)

Witness my hand and official seal:



(signature name of Designee)
Notary Public, Denton County, Texas



COATS ROSE PC
BARTON OAKS PLAZA
TERRACE 2
2700 VIA FORTUNA, SUITE 350
AUSTIN TX 78746

Ad Number: 33462

Price: \$37.50

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Drc 02/14/2021

Ad Copy:

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Drc 02/14/2021