By:  Springer S.B. No. 2240

(In the Senate - Filed April 29, 2021; May 3, 2021, read first time and referred to Committee on Local Government; May 19, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; May 19, 2021, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Bettencourt       X

Menéndez          X

Eckhardt          X

Gutierrez         X

Hall              X

Nichols           X

Paxton            X

Springer          X

Zaffirini         X

COMMITTEE SUBSTITUTE FOR S.B. No. 2240 By:  Springer

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the High Pointe Ranch Municipal Utility District No. 1 of Denton County; 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 7919A to read as follows:

CHAPTER 7919A. HIGH POINTE RANCH MUNICIPAL UTILITY DISTRICT NO. 1 OF DENTON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7919A.0101.  DEFINITIONS. In this chapter:

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

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

(3)  "City" means the City of Aubrey, Texas;

(4)  "Director" means a board member.

(5)  "District" means the High Pointe Ranch Municipal Utility District No. 1 of Denton County.

Sec. 7919A.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7919A.0103.  CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

Sec. 7919A.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7919A.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. 7919A.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 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. 7919A.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. 7919A.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each even-numbered year.

(b)  The governing body of the city, by a majority vote, shall appoint one member of the board.

(c)  The commission shall appoint four members of the board in the manner provided by Section 7919A.0202.

Sec. 7919A.0202.  APPOINTMENT BY COMMISSION. (a) Before the term of a director appointed by the commission expires, the board shall recommend to the commission a person to serve as a successor director. The commission shall appoint as director the person recommended by the board.

(b)  A person recommended by the board under Subsection (a) must be:

(1)  at least 18 years of age;

(2)  an owner of property in the district;

(3)  an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4)  an owner of a beneficial interest in a trust that owns property in the district; or

(5)  an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).

Sec. 7919A.0203.  VACANCY. (a) Except as provided by Subsection (b), if a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

(b)  If a vacancy occurs in the position of the board member appointed by the city, the city shall appoint a director for the remainder of the unexpired term.

Sec. 7919A.0204.  INITIAL DIRECTORS. (a) The initial directors that will be replaced by appointment by the commission are as follows:

(1)  Clark Overlander;

(2)  Justin Morse;

(3)  Zach Stateson; and

(4)  Michelle Dobson.

(b)  The initial director that will be replaced by appointment by the governing body of the city is Mark Kaiser.

(c)  The initial directors shall determine by lot which two positions expire after two years, and which three positions expire after four years.

(d)  This section expires March 31, 2026.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7919A.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7919A.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. 7919A.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. 7919A.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. 7919A.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.

Sec. 7919A.0306.  DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1)  has no outstanding bonded debt; and

(2)  is not imposing ad valorem taxes.

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

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

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

(e)  The board may adopt an order dividing the district before or after the date the board holds an election under Section 7919A.0103 to confirm the district's creation.

(f)  An order dividing the district shall:

(1)  name each new district;

(2)  include the metes and bounds description of the territory of each new district;

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

(4)  provide for the division of assets and liabilities between the new districts.

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

(h)  A new district created by the division of the district shall hold a confirmation and directors' election as required by Section 7919A.0103. If the voters of a new district do not confirm the creation of the new district, the assets, obligations, territory, and governance of the new district revert to the original district.

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

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

(k)  Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 7919A.0104 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7919A.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 7919A.0403.

(b)  The district must hold an election in the manner provided 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. 7919A.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7919A.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. 7919A.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. 7919A.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. 7919A.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 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. 7919A.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.  The High Pointe Ranch Municipal Utility District No. 1 of Denton County initially includes all the territory contained in the following area:

HIGH POINTE RANCH MUNICIPAL UTILITY DISTRICT NO. 1 - TRACT 1

OF a 357.445 acres tract of land out of the Francisco Trevino Survey, Abstract No. 1243, Denton County, Texas; being all of a certain 229.479 acres tract (Tract 1), a 32.8 acres tract (Tract 2) and a 29.885 acres tract (Tract 3), all described in Volume 4257, Page 1101, Document No. 99-0004597 of the Deed Records of Denton County, Texas; also being all of a certain 6.874 acres tract described in Volume 4574, Page 1528, Document No. 00-000036697 and all of a certain 57.6071 acres tract described in Volume 4483, Page 133, Document No. 99-000123273, both in the Deed Records of Denton County, Texas; and being further described by metes and bounds as follows:

BEGINNING at a set "PK" nail in Blackjack Road (paved) and in the southeast right of way line of U.S. Highway No. 377 and in the recognized north line of said Francisco Trevino Survey and at the northwest corner of said 32.8 acres tract for the most northerly northwest and beginning corner of this tract. Whence the recognized southwest corner of the Thomas Chambers Survey, Abstract No. 223 bears South 87°12'41" East 60.40 feet.

THENCE South 87°12'41" East at 60.40 feet pass a "PK" nail at the southwest corner of a certain 6.164 acres tract (Tract 5) described in said Volume 4257, Page 1101 and in all 1160.06 feet along said Blackjack Road to a found "PK" nail at the southeast corner of said 6.164 acres tract for a corner of this tract.

THENCE South 88°09'42" East 505.03 feet to a set "PK" nail in said Blackjack Road for a corner of this tract.

THENCE South 89°21'04" East 1356.90 feet to a set "PK" nail in said Blackjack Road for the northeast corner of this tract.

THENCE South 01°40'27" West at 20.69 feet pass a 4" steel post in the south line of said Blackjack Road and in all 2322.77 feet to a set capped 1/2" iron rod for the most easterly southeast corner of this tract.

THENCE South 89°35'01" West at 250.28 feet pass a found capped 1/2" iron rod at the northeast corner of a certain 27.104 acres tract described in Document No. 96-000070599 and in all 1539.46 feet to a found 1/2" iron pipe at the northwest corner of a certain 27.600 acres tract described in Document No. 96-000070600 for an ell corner of this tract.

THENCE South 00°10'39" East 956.88 feet to a set capped 1/2" iron rod in the west line of said 27.600 acres tract for a corner of this tract.

THENCE South 00°56'07" West 1132.15 feet to a set capped 1/2" iron rod in the north right of way line of F.M. Highway No. 428 and at the southwest corner of said 27.600 acres tract for the most southerly southeast corner of this tract.

THENCE along the north right of way line of said F.M. Highway No. 428 the following courses and distances:

●  South 71°34'50" West 144.40 feet to a set capped 1/2" iron rod;

●  Westerly along the arc of a 07 deg. 21 min. 35 sec. non-tangent curve to the right having a radius of 778.51 feet, a central angle of 18 deg. 46 min. 14 sec., a chord of South 82°46'29" West 253.91 feet and an arc length of 255.05 feet to a set capped 1/2" iron rod;

●  South 88°45'46" West 378.48 feet to a set capped 1/2" iron rod;

●  South 89°36'06" West 1349.02 feet to a set capped 1/2" iron rod;

●  And South 89°52'21" West 1364.91 feet to a set capped 1/2" iron rod in the southeast right of way line of said U.S. Highway No. 377 for the most southerly southwest corner of this tract;

THENCE North 32°23'53" West 213.57 feet along the southeast right of way line of said U.S. Highway 377 to a wood right of way marker for the most westerly southwest corner of this tract.

THENCE North 25°19'53" East 4804.08 feet along the southeast right of way line of said U.S. Highway No. 377 to a set capped 1/2" iron rod for the most westerly northwest corner of this tract.

THENCE North 59°03'36" East at 101.21 feet pass a set 1/2" iron rod and in all 166.34 feet to the POINT OF BEGINNING and containing 357.445 acres of land, more or less.

HIGH POINTE RANCH MUNICIPAL UTILITY DISTRICT NO. 1 - TRACT 2

BEING a tract of land situated in the F. Trevino Survey, Abstract No. 1243, Denton County, Texas, and being all of a called 61.667 acre tract of land described in a General Warranty Deed to Betsy Turner, as recorded in Instrument No. 97-0010270 of the Official Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a mag nail set for the northeast corner of said 61.667 acre tract, common to the northwest corner of a called 41.640 acre tract of land described in a deed to Michael Ray Self and spouse, Hannah Carter Self, as recorded in Instrument No. 2020-72317 of the Official Records of Denton County, Texas, being on the southerly line of Tract I described in a deed to LTR Dressage, LLC, as recorded in Instrument No. 2012-60776 of the Official Records of Denton County, Texas, and in the centerline of Black Jack Road, a variable width right-of-way, no record found;

THENCE South 0°37'22" West, departing the southerly line of said Tract I and the centerline of said Black Jack Road, along the easterly line of said 61.667 acre tract and the westerly line of said 41.640 acre tract, a distance of 2297.48 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of said 61.667 acre tract, common to the southwest corner of said 41.640 acre tract, being on the northerly line of a called 94.58 acre tract of land described in a deed to Robert J. Houlihan, Trustee of the Jacqueline A. Houlihan Family Trust, as recorded in Instrument No. 2015-75670 of the Official Records of Denton County, Texas;

THENCE South 89°33'30" West, along the southerly line of said 61.667 acre tract, the northerly line of said 94.58 acre tract and the northerly line of a called 5.000 acre tract of land described in a deed to Robert J. Houlihan, as recorded in Instrument No. 2015-75669 of the Official Records of Denton County, Texas, a distance of 1184.22 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said 61.667 acre tract, being on the easterly line of a called 166.34 acre tract of land described in a deed to ALW 377, LLC, as recorded in Instrument No. 2018-78707 of the Official Records of Denton County, Texas;

THENCE North 1°40'23" East, departing the northerly line of said 94.58 acre tract, along the westerly line of said 61.667 acre tract and the easterly line of said 166.34 acre tract, a distance of 2319.56 feet to a 1 inch iron pipe found for the northwest corner of said 61.667 acre tract, common to the northeast corner of said 166.34 acre tract, being on the southerly line of a called 37.115 acre tract of land described in a deed to Calvin Paul Redfearn, as recorded in Instrument No. 2014-96676 of the Official Records of Denton County, Texas, and in the middle of Black Jack Road;

THENCE South 89°23'35" East, along the northerly line of said 61.667 acre tract, the southerly line of said 37.115 acre tract, the southerly line of a called 20.236 acre tract of land described in a deed to Gary Conway and Debbie Conway, as recorded in Instrument No. 2019-158825 of the Official Records of Denton County, Texas, and the southerly line of said Tract I, a distance of 1141.49 feet to the POINT OF BEGINNING and containing 61.611 acres (2,683,778 square feet) of land, more or less.

HIGH POINTE RANCH MUNICIPAL UTILITY DISTRICT NO. 1 - TRACT 3

BEING a tract of land situated in the F. Trevino Survey, Abstract No. 1243, Denton County, Texas, and being all of a called 41.640 acre tract of land described in a Warranty Deed with Vendor's Lien to Michael Ray Self and spouse, Hannah Carter Self, as recorded in Instrument No. 2020-72317 of the Official Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a mag nail set for the northwest corner of said 41.640 acre tract, common to the northeast corner of a called 61.667 acre tract of land described in a deed to Betsy Turner, as recorded in Instrument No. 97-0010270 of the Official Records of Denton County, Texas, being on the southerly line of Tract I described in a deed to LTR Dressage, LLC, as recorded in Instrument No. 2012-60776 of the Official Records of Denton County, Texas, and in the centerline of Black Jack Road, a variable width right-of-way, no record found;

THENCE South 89°10'02" East, along a northerly line of said 41.640 acre tract, the southerly line of said Tract I, the southerly line of a called 22.380 acre tract of land described as Tract II in said deed recorded in Instrument No. 2012-60776 of the Official Records of Denton County, Texas, and the centerline of said Black Jack Road, a distance of 570.47 feet to a 1 inch iron pipe found for the northerly northeast corner of said 41.640 acre tract, common to the northwest corner of a called 14.975 acre tract of land described in a deed to K & T Swan Family Limited Partnership, L.P., as recorded in Instrument No. 2017-78524 of the Official Records of Denton County, Texas;

THENCE South 1°07'20" East, departing the southerly line of said Tract II and the centerline of said Black Jack Road, along an easterly line of said 41.640 acre tract and the westerly line of said 14.975 acre tract, a distance of 1528.04 feet to a 1/2 inch iron rod found for the southwest corner of said 14.975 acre tract, common to an ell corner of said 41.640 acre tract;

THENCE South 89°22'10" East, along a northerly line of said 41.640 acre tract and the southerly line of said 14.975 acre tract, a distance of 570.06 feet to a 3/8 inch iron rod found for the southerly northeast corner of said 41.640 acre tract, common to the southeast corner of said 14.975 acre tract;

THENCE South 1°04'44" East, along an easterly line of said 41.640 acre tract, a distance of 745.84 feet to a 1/2 inch iron pipe found for the southeast corner of said 41.640 acre tract, common to the northeast corner of a called 16.597 acre tract of land described in a deed to Phillip J. Anton and wife, Karen M. Anton, as recorded in Instrument No. 95-65740 of the Official Records of Denton County, Texas;

THENCE South 89°33'30" West, along the southerly line of said 41.640 acre tract, the northerly line of said 16.597 acre tract, the northerly line of a called 6.703 acre tract of land described in a deed to Phillip John Anton and wife, Karen Marie Anton, as recorded in Instrument No. 2005-92268 of the Official Records of Denton County, Texas, and the northerly line of a called 94.58 acre tract of land described in a deed to Robert J. Houlihan, Trustee of the Jacqueline A. Houlihan Family Trust, as recorded in Instrument No. 2015-75670 of the Official Records of Denton County, Texas, a distance of 1209.41 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said 41.640 acre tract, common to the southeast corner of aforesaid 61.667 acre tract;

THENCE North 0°37'22" East, departing the northerly line of said 94.58 acre tract, along the westerly line of said 41.640 acre tract and the easterly line of said 61.667 acre tract, a distance of 2297.48 feet to the POINT OF BEGINNING and containing 41.650 acres (1,814,290 square feet) of land, more or less.

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 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 7919A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7919A.0306 to read as follows:

Sec. 7919A.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.  This this Act takes effect March 31, 2022.

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