

By: Bell of Montgomery

H.B. No. 3436

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation of the Waller County Municipal Utility  
3 District No. 40; 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 7901 to read as follows:

9 CHAPTER 7901. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 40

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7901.0101. 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. 40.

18 Sec. 7901.0102. NATURE OF DISTRICT. The district is a  
19 municipal utility district created under Section 59, Article XVI,  
20 Texas Constitution.

21 Sec. 7901.0103. 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. 7901.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 7901.0103 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. 7901.0105. 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. 7901.0106. 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. 7901.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 7901.0202, directors  
6 serve staggered four-year terms.

7           Sec. 7901.0202. TEMPORARY DIRECTORS. (a) The temporary  
8 board consists of:

9                   (1) Amy Hancock;

10                   (2) Linda Schmidt;

11                   (3) Grant Beehler;

12                   (4) Rhonda Emerson; and

13                   (5) Robin Ross.

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

15                   (1) the date permanent directors are elected under  
16 Section 7901.0103; 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 7901.0103 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 7901.0103; 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. 7901.0301. 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. 7901.0302. 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. 7901.0303. 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. 7901.0304. 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. 7901.0305. 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. 7901.0306. 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) A 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 7901.0103 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 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 7901.0103. If the voters of a new district do not confirm  
21 the creation of the new district, the assets, obligations,  
22 territory, and governance of the new district revert to the  
23 original district.

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

27 (j) Any new district created by the division of the district

1 must hold an election as required by this chapter to obtain voter  
2 approval before the district may impose a maintenance tax or issue  
3 bonds payable wholly or partly from ad valorem taxes.

4 (k) Municipal consent to the creation of the district and to  
5 the inclusion of land in the district granted under Section  
6 7901.0104 acts as municipal consent to the creation of any new  
7 district created by the division of the district and to the  
8 inclusion of land in the new district.

9 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

10 Sec. 7901.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
11 The district may issue, without an election, bonds and other  
12 obligations secured by:

13 (1) revenue other than ad valorem taxes; or

14 (2) contract payments described by Section 7901.0403.

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

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

23 Sec. 7901.0402. OPERATION AND MAINTENANCE TAX. (a) If  
24 authorized at an election held under Section 7901.0401, the  
25 district may impose an operation and maintenance tax on taxable  
26 property in the district in accordance with Section 49.107, Water  
27 Code.

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

3       Sec. 7901.0403. CONTRACT TAXES. (a) In accordance with  
4 Section 49.108, Water Code, the district may impose a tax other than  
5 an operation and maintenance tax and use the revenue derived from  
6 the tax to make payments under a contract after the provisions of  
7 the contract have been approved by a majority of the district voters  
8 voting at an election held for that purpose.

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

12                   SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

13       Sec. 7901.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
14 OBLIGATIONS. The district may issue bonds or other obligations  
15 payable wholly or partly from ad valorem taxes, impact fees,  
16 revenue, contract payments, grants, or other district money, or any  
17 combination of those sources, to pay for any authorized district  
18 purpose.

19       Sec. 7901.0502. TAXES FOR BONDS. At the time the district  
20 issues bonds payable wholly or partly from ad valorem taxes, the  
21 board shall provide for the annual imposition of a continuing  
22 direct ad valorem tax, without limit as to rate or amount, while all  
23 or part of the bonds are outstanding as required and in the manner  
24 provided by Sections 54.601 and 54.602, Water Code.

25       Sec. 7901.0503. BONDS FOR ROAD PROJECTS. At the time of  
26 issuance, the total principal amount of bonds or other obligations  
27 issued or incurred to finance road projects and payable from ad



1 valorem taxes may not exceed one-fourth of the assessed value of the  
2 real property in the district.

3 SECTION 2. Waller County Municipal Utility District No. 40  
4 initially includes all the territory contained in the following  
5 area:

6 A METES & BOUNDS description of a certain 377.77 acre tract situated  
7 in the Nathan W. Bush Survey, Abstract No. 76 and B.B.B. & C.R.R.  
8 Co. Survey, Abstract No. 93 in Waller County, Texas being the  
9 remainder of a called 590.4 acre tract (remainder tract) conveyed  
10 by Special Warranty Deed to Sorsby Family Farm, LP recorded in  
11 Volume 895, Page 208 of the Deed Records of Waller County and all of  
12 a called 1 acre tract conveyed by Deed to J.B. Sorsby, Jr. recorded  
13 in Volume 202, Page 245 of the Deed Records of Waller County; said  
14 377.77 acre tract being more particularly described as follows with  
15 all bearings based on the Texas Coordinate System of 1983, South  
16 Central Zone (4204);

17 BEGINNING at a set 5/8-inch iron rod (with cap stamped  
18 "Jones|Carter") marking an easterly south corner of the herein  
19 described subject tract, being common with the southwest corner of  
20 a called 6.00 acre portion (Tract 1) of said remainder tract  
21 surveyed on equal date herewith and in the south line of said  
22 remainder tract and the occupied north right-of-way line of Cameron  
23 Road (Unknown Width);

24 THENCE South 87°22'02" West, along the common line of said remainder  
25 tract and said occupied north right-of-way line of Cameron Road,  
26 7964.88 feet to a set 5/8-inch iron rod (with cap stamped  
27 "Jones|Carter") marking a westerly south corner of the herein

1 described subject tract, being common with the southeast corner of  
2 a called 4.00 acre portion (Tract 2) of said remainder tract  
3 surveyed on equal date herewith and in the south line of said  
4 remainder tract and the occupied north right-of-way line of Cameron  
5 Road;

6 THENCE North 02°19'35" West, along the east line of said Tract 2,  
7 418.00 feet to a set 5/8-inch iron rod (with cap stamped  
8 "Jones|Carter") marking an interior southwest corner of the herein  
9 described subject tract, being common with the northeast corner of  
10 said Tract 2;

11 THENCE South 87°22'02" West, along the north line of said Tract 2,  
12 416.70 feet to a set 5/8-inch iron rod (with cap stamped  
13 "Jones|Carter") marking a southerly west corner of the herein  
14 described subject tract, being common with the northwest corner of  
15 said Tract 2 and in the west line of aforementioned remainder tract  
16 and occupied east right-of-way line of Flukinger Road (Unknown  
17 Width);

18 THENCE North 02°17'06" West, along the common line of said remainder  
19 tract and said occupied east right-of-way line of Flukinger Road,  
20 637.93 feet to a found 8-inch corner fence post marking a northwest  
21 corner of the herein described subject tract, being common with a  
22 northwest corner of said remainder tract, the southwest corner of a  
23 called 110.00 acre tract conveyed to Prairie View A&M University  
24 (Waller County Central Appraisal District, no deed of record  
25 found);

26 THENCE along the common line of said remainder tract and said 110.00  
27 acre tract, the following two (2) courses and distances:

1           (1) North 87°09'53" East, 1849.82 feet to a found 1/2-inch  
2 iron pipe;

3           (2) North 07°12'03" East, 1192.07 feet to a found 6-inch  
4 cedar fence post marking a northwest corner of the herein described  
5 subject tract, being common with the northwest corner of said  
6 remainder tract, the southwest corner of the remainder of a called  
7 100 acre tract conveyed by Deed of Gift to Alice Sorsby McGuffie in  
8 Volume 1037, Page 285 Official Public Records of Waller County and  
9 Deed of Gift to William Bascom Sorsby recorded in Volume 1037, Page  
10 289 of the Official Public Records of Waller County and in the east  
11 line of said 110.00 acre tract;

12 THENCE North 86°27'47" East, along the common line of said remainder  
13 tract and said remainder of a 100 acre tract, passing at 5137.90  
14 feet, 0.28 feet to the right a found 3/8-inch iron rod, continuing  
15 in all a total distance of 5970.18 feet to a point-for-corner  
16 marking the northeast corner of the herein described subject tract,  
17 being common with the northeast corner of said remainder tract, the  
18 southeast corner of a called 7.399 acre tract conveyed by Partition  
19 Deed to Alice Sorsby McGuffie recorded in Volume 334, Page 585 of  
20 the Deed Records of Waller County and in the west right-of-way line  
21 of F.M. Highway 362 (called 80-Foot Wide, State Project  
22 No. R-523-2-3, Volume 117, Page 262 Deed Records of Waller County)  
23 and from which a found 3/8-inch iron rod bears North 70°16'07" East,  
24 0.87 feet;

25 THENCE South 22°03'23" East, along the common line of said remainder  
26 tract and said west right-of-way line of F.M. Highway 362, 1845.75  
27 feet to a set 5/8-inch iron rod (with cap stamped "Jones|Carter")

1 marking a southerly east corner of the herein described subject  
2 tract, being common with the northeast corner of aforementioned  
3 Tract 1 and being in the east line of said remainder tract and said  
4 west right-of-way line of F.M. Highway 362;

5 THENCE South 87°13'41" West, along the north line of said Tract 1,  
6 416.63 feet to a set 5/8-inch iron rod (with cap stamped  
7 "Jones|Carter") marking an interior southeast corner of the herein  
8 described subject tract, being common with the northwest corner of  
9 said Tract 1;

10 THENCE South 17°24'25" East, 609.66 feet to the POINT OF BEGINNING,  
11 CONTAINING 377.77 acres of land in Waller County, Texas as shown on  
12 Dwg No. 15061 V2 filed in the offices of Jones|Carter in College  
13 Station, Texas.

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

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

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

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

5 SECTION 4. (a) If this Act does not receive a two-thirds  
6 vote of all the members elected to each house, Subchapter C, Chapter  
7 7901, Special District Local Laws Code, as added by Section 1 of  
8 this Act, is amended by adding Section 7901.0307 to read as follows:

9 Sec. 7901.0307. NO EMINENT DOMAIN POWER. The district may  
10 not exercise the power of eminent domain.

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

14 SECTION 5. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2021.