

By: Leman

H.B. No. 4623

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Austin County Municipal Utility
3 District No. 1; 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 7913A to read as follows:

9 CHAPTER 7913A. AUSTIN COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7913A.0101. DEFINITIONS. In this chapter:

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

13 (2) "City" means the City of Sealy, Texas.

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

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

17 (5) "District" means the Austin County Municipal
18 Utility District No. 1.

19 Sec. 7913A.0102. NATURE OF DISTRICT. The district is a
20 municipal utility district created under Section 59, Article XVI,
21 Texas Constitution.

22 Sec. 7913A.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. 7913A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 7913A.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. 7913A.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. 7913A.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. 7913A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7913A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7913A.0202. TEMPORARY DIRECTORS. (a) On or after the
9 effective date of the Act enacting this chapter, the owner or owners
10 of a majority of the assessed value of the real property in the
11 district may submit a petition to the commission requesting that
12 the commission appoint as temporary directors the five persons
13 named in the petition. The commission shall appoint as temporary
14 directors the five persons named in the petition.

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

16 (1) the date permanent directors are elected under
17 Section 7913A.0103; or

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

20 (c) If permanent directors have not been elected under
21 Section 7913A.0103 and the terms of the temporary directors have
22 expired, successor temporary directors shall be appointed or
23 reappointed as provided by Subsection (d) to serve terms that
24 expire on the earlier of:

25 (1) the date permanent directors are elected under
26 Section 7913A.0103; or

27 (2) the fourth anniversary of the date of the

1 appointment or reappointment.

2 (d) If Subsection (c) applies, the owner or owners of a
3 majority of the assessed value of the real property in the district
4 may submit a petition to the commission requesting that the
5 commission appoint as successor temporary directors the five
6 persons named in the petition. The commission shall appoint as
7 successor temporary directors the five persons named in the
8 petition.

9 Sec. 7913A.0203. DESIGNATED BOARD MEETING LOCATION. (a)
10 The board shall designate a meeting place inside the district for
11 conducting the meetings of the board. The meeting place designated
12 may be a private residence or office, provided that, in the order
13 designating the meeting place, the board declares the place where
14 the meeting is held to be a public place and invites the public to
15 attend any meeting of the board held in that place.

16 (b) If the board establishes that no suitable place exists
17 for meeting inside the district, the board may designate a meeting
18 place outside the district. The board shall give notice of the
19 location of a meeting place outside the district by:

20 (1) filing a copy of the resolution designating the
21 location and a justification of why the meeting will not be held in
22 the district or within 10 miles of the boundary of the district, if
23 applicable, with the commission; and

24 (2) publishing notice of the location in a newspaper
25 of general circulation in the district.

26 (c) If the board changes the location of a meeting place
27 outside the district, the board shall give notice of the change in

1 the manner described by Subsection (b).

2 SUBCHAPTER C. POWERS AND DUTIES

3 Sec. 7913A.0301. GENERAL POWERS AND DUTIES. The district
4 has the powers and duties necessary to accomplish the purposes for
5 which the district is created.

6 Sec. 7913A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
7 DUTIES. The district has the powers and duties provided by the
8 general law of this state, including Chapters 49 and 54, Water Code,
9 applicable to municipal utility districts created under Section 59,
10 Article XVI, Texas Constitution.

11 Sec. 7913A.0303. AUTHORITY FOR ROAD PROJECTS. Under
12 Section 52, Article III, Texas Constitution, the district may
13 design, acquire, construct, finance, issue bonds for, improve,
14 operate, maintain, and convey to this state, a county, or a
15 municipality for operation and maintenance macadamized, graveled,
16 or paved roads, or improvements, including storm drainage, in aid
17 of those roads.

18 Sec. 7913A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
19 road project must meet all applicable construction standards,
20 zoning and subdivision requirements, and regulations of each
21 municipality in whose corporate limits or extraterritorial
22 jurisdiction the road project is located.

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

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

4 Sec. 7913A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
5 ORDINANCE OR RESOLUTION. The district shall comply with all
6 applicable requirements of any ordinance or resolution that is
7 adopted under Section 54.016 or 54.0165, Water Code, and that
8 consents to the creation of the district or to the inclusion of land
9 in the district.

10 Sec. 7913A.0306. EFFECT OF ANNEXATION. Notwithstanding any
11 other law, if all or any part of the territory of the district is
12 annexed by the city into the city's corporate limits, the district
13 retains all of the district's outstanding debt and obligations and
14 is not dissolved.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 7913A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
17 The district may issue, without an election, bonds and other
18 obligations secured by:

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

20 (2) contract payments described by Section
21 7913A.0403.

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

26 (c) The district may not issue bonds payable from ad valorem
27 taxes to finance a road project unless the issuance is approved by a

1 vote of a two-thirds majority of the district voters voting at an
2 election held for that purpose.

3 Sec. 7913A.0402. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 7913A.0401, the
5 district may impose an operation and maintenance tax on taxable
6 property in the district in accordance with Section 49.107, Water
7 Code.

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

10 Sec. 7913A.0403. CONTRACT TAXES. (a) In accordance with
11 Section 49.108, Water Code, the district may impose a tax other than
12 an operation and maintenance tax and use the revenue derived from
13 the tax to make payments under a contract after the provisions of
14 the contract have been approved by a majority of the district voters
15 voting at an election held for that purpose.

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

19 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

20 Sec. 7913A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
21 OBLIGATIONS. The district may issue bonds or other obligations
22 payable wholly or partly from ad valorem taxes, impact fees,
23 revenue, contract payments, grants, or other district money, or any
24 combination of those sources, to pay for any authorized district
25 purpose.

26 Sec. 7913A.0502. TAXES FOR BONDS. At the time the district
27 issues bonds payable wholly or partly from ad valorem taxes, the

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

5 Sec. 7913A.0503. BONDS FOR ROAD PROJECTS. At the time of
6 issuance, the total principal amount of bonds or other obligations
7 issued or incurred to finance road projects and payable from ad
8 valorem taxes may not exceed one-fourth of the assessed value of the
9 real property in the district.

10 SECTION 2. The Austin County Municipal Utility District No.
11 1 initially includes all the territory contained in the following
12 area:

13 A 38.118 acre, or 1,660,419 square feet more or less, tract of land,
14 being a portion of that residue of called 38.143 acre tract of land
15 conveyed to David Cryan as described in a deed recorded in Clerk's
16 File No. 153921 of the Official Records of Austin County, Texas,
17 situated in the San Felipe de Austin Survey, Abstract 5, in the City
18 of Sealy, Austin County, Texas. Said 38.118 acre tract being more
19 fully described as follows, with bearings based on the Texas
20 Coordinate System of 1983, South Central Zone from the North
21 American Datum of 1983 (NA2011) epoch 2010.00:

22 BEGINNING: At an iron rod with aluminum cap found in the
23 centerline of Harrison Road (30 feet wide) as recorded under Volume
24 Y, Page 318 of the Deed Records of Austin County, Texas and the
25 northeast corner of said 38.143 acre tract and for the northeast
26 corner of the herein described tract and being on the west
27 right-of-way line of Schmidt Road (60 feet wide) a called 3.946

1 acres of land as conveyed to the City of Sealy as recorded under
2 Clerk's File No. 025841 of the official Records of Austin County,
3 Texas;

4 THENCE: S 42°42'31" W, along and with the said west right-of-way
5 line, a distance of 2,864.13 feet to a point to a 1/2 inch iron pipe
6 with cap stamped "Brown & Gay" found for the southeast corner of the
7 herein described tract and being on the northeast line of a called
8 237.88 acre tract as described in a deed to Wal-Mart Stores East, LP
9 recorded under Clerk's File No. 031749 of the Official Records of
10 Austin County, Texas;

11 THENCE: N 47°18'41" W, along and with said northeast line, a
12 distance of 578.43 feet to an iron rod with a yellow cap stamped
13 "Pate-Dawson" to be set for the southwest corner of the herein
14 described tract and the southeast corner of a called 70.00 acres of
15 land conveyed to David Cryan as recorded in Clerk's File No. 126232
16 of the Official Records of Austin County, Texas;

17 THENCE: N 42°39'39" E, along with said north line, a distance of a
18 distance of 2,865.17 feet to a 1/2 inch iron rod found in the said
19 centerline of Harrison Road and for the northwest corner of the
20 herein described tract and the northeast corner of said 70.00
21 acres;

22 THENCE: S 47°12'30" E, along said centerline of Harrison Road, a
23 distance of 580.82 feet to the POINT OF BEGINNING, and containing
24 38.118 acres in the City of Houston, Harris County, Texas.

25 A 118.535 acre, or 5,163,385 square feet more or less, tract of
26 land, being a portion of that residue of called 140.000 acre tract
27 of land conveyed to Ranch County of Texas, Inc. as described in a

1 deed recorded in Clerk's File No. 081189 of the Official Records of
2 Austin County, Texas, and a portion of Tract 1, a residue of a
3 called 55.3 acres of land conveyed to David Cryan as described in a
4 deed recorded in Clerk's File No. 164420 of the Official Records of
5 Austin County, Texas, and all of Tract 2, a called 28.172 acres of
6 land conveyed to David Cryan as described in a deed recorded in
7 Clerk's File No. 153921 of the Official Records of Austin County,
8 Texas, and all of Tract 5, a called 6.1259 acres of land conveyed to
9 David Cryan as described in a deed recorded in Clerk's File
10 No. 164420 of the Official Records of Austin County, Texas, and all
11 of Tract 4, a called 6.1259 acres of land conveyed to David Cryan as
12 described in a deed recorded in Clerk's File No. 164420 of the
13 Official Records of Austin County, Texas, and all of Tract 3, a
14 called 6.1259 acres of land conveyed to David Cryan as described in
15 a deed recorded in Clerk's File No. 164420 of the Official Records
16 of Austin County, Texas, and all of Tract 2, a called 6.1259 acres
17 of land conveyed to David Cryan as described in a deed recorded in
18 Clerk's File No. 164420 of the Official Records of Austin County,
19 Texas, and all of Parcel 1, a called 5.452 acres of land conveyed to
20 David Cryan as described in a deed recorded in Clerk's File
21 No. 191010 of the Official Records of Austin County, Texas, and all
22 of Parcel 2, a called 5.350 acres of land conveyed to David Cryan as
23 described in a deed recorded in Clerk's File No. 191010 of the
24 Official Records of Austin County, Texas, situated in the San
25 Felipe de Austin Survey, Abstract 5, in the City of Sealy, Austin
26 County, Texas. Said 118.535 acre tract being more fully described
27 as follows, with bearings based on the Texas Coordinate System of

1 1983, South Central Zone from the North American Datum of 1983
2 (NA2011) epoch 2010.00:

3 BEGINNING: At an iron rod with aluminum cap found on the west
4 right-of-way line of F.M. Highway No. 3013 (width varies) and the
5 northeast corner of a called 38.69 acre tract of land conveyed to
6 Jinsung T.E.C. Texas, L.L.C. Texas, L.L.C. as described in a deed
7 recorded in Clerk's File No. 126413 of the Official Records of
8 Austin County, Texas, and for the most northerly southeast corner
9 of the herein described tract;

10 THENCE: N 47°17'47" W, a distance of 950.10 feet to a 5/8 inch iron
11 rod found for an interior corner of the herein described tract and
12 being the northwest corner of said 38.69 acres and on the east line
13 of said Tract 1, a residue of a called 55.3 acres;

14 THENCE: S 42°39'37" W, along the common line of said Tract 1, a
15 residue of a called 55.3 acres and said 38.69 acres, a distance of
16 1,774.20 feet to an iron rod with aluminum cap found for the
17 southeast corner of said Tract 1, a residue of a called 55.3 acres
18 and the southwest corner of said 38.69 acres and for the most
19 southerly southeast corner of the herein described tract and on the
20 northerly line of a called 6.362 acres of land conveyed to the City
21 of Sealy, Texas as recorded in Clerk's File No. 031750 of the
22 Official Records of Austin County, Texas;

23 THENCE: N 47°18'41" W, along with said north line, a distance of
24 1,607.38 feet to an iron rod with aluminum cap found on the east
25 right-of-way line to Schmidt Road (60 feet wide) a called 3.946
26 acres of land as conveyed to the City of Sealy as recorded under
27 Clerk's File No. 025841 of the official Records of Austin County,

1 Texas, and the southwest corner said Tract 2 of called 28.172 acres
2 and the southwest corner of the herein described tract;
3 THENCE: N 42°42'31" E, along the said east right-of-way line and
4 along said Tract 2 of called 28.172 acres, a distance of 2,864.02
5 feet to an iron rod with aluminum cap found in the centerline of
6 Harrison Road (30 feet wide) as recorded under Volume Y, Page 318 of
7 Deed Records of Austin County, Texas and the northwest corner of
8 said Tract 2 of called 28.172 acres and the northwest corner of the
9 herein described tract;
10 THENCE: S 47°12'30" E, along and with said centerline of Harrison
11 Road, a distance of 1,921.18 feet to a Mag Nail found for the most
12 northerly northeast corner of the herein described tract and for
13 the northeast corner of said Parcel 2 and the northwest corner of
14 said Residue of called 140.000 acres;
15 THENCE: S 42°38'14" W, along and with the east line of said Parcel
16 2, a distance of 736.53 feet to an iron rod with aluminum cap found
17 for an interior corner of the herein described tract and for the
18 southeast corner of said Parcel 2;
19 THENCE: S 47°18'33" E, departing said east line and along and with
20 the north line of said Parcel 1, a distance of 633.63 feet to an iron
21 rod with aluminum cap found on the west right-of-way line of said
22 F.M. No. 3013 and the most southerly northeast corner of the herein
23 described tract;
24 THENCE: S 42°39'57" W, a distance of 350.05 feet to the POINT OF
25 BEGINNING, and containing 118.535 acres in the City of Houston,
26 Harris County, Texas.

27 SECTION 3. (a) The legal notice of the intention to

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

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

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

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

18 SECTION 4. (a) If this Act does not receive a two-thirds
19 vote of all the members elected to each house, Subchapter C, Chapter
20 7913A, Special District Local Laws Code, as added by Section 1 of
21 this Act, is amended by adding Section 7913A.0307 to read as
22 follows:

23 Sec. 7913A.0307. NO EMINENT DOMAIN POWER. The district may
24 not exercise the power of eminent domain.

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

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