

1-1 By: Leman (Senate Sponsor - Kolkhorst) H.B. No. 4623  
 1-2 (In the Senate - Received from the House May 17, 2021;  
 1-3 May 17, 2021, read first time and referred to Committee on Local  
 1-4 Government; May 22, 2021, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
 1-6 May 22, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 4623 By: Eckhardt

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the creation of the Austin County Municipal Utility  
 1-22 District No. 1; granting a limited power of eminent domain;  
 1-23 providing authority to issue bonds; providing authority to impose  
 1-24 assessments, fees, and taxes.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-26 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
 1-27 Code, is amended by adding Chapter 7913A to read as follows:

1-28 CHAPTER 7913A. AUSTIN COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

1-29 SUBCHAPTER A. GENERAL PROVISIONS

1-30 Sec. 7913A.0101. DEFINITIONS. In this chapter:

1-31 (1) "Board" means the district's board of directors.

1-32 (2) "Commission" means the Texas Commission on  
 1-33 Environmental Quality.

1-34 (3) "Director" means a board member.

1-35 (4) "District" means the Austin County Municipal  
 1-36 Utility District No. 1.

1-37 Sec. 7913A.0102. NATURE OF DISTRICT. The district is a  
 1-38 municipal utility district created under Section 59, Article XVI,  
 1-39 Texas Constitution.

1-40 Sec. 7913A.0103. CONFIRMATION AND DIRECTOR ELECTION  
 1-41 REQUIRED. The temporary directors shall hold an election to  
 1-42 confirm the creation of the district and to elect five permanent  
 1-43 directors as provided by Section 49.102, Water Code.

1-44 Sec. 7913A.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
 1-45 temporary directors may not hold an election under Section  
 1-46 7913A.0103 until each municipality in whose corporate limits or  
 1-47 extraterritorial jurisdiction the district is located has  
 1-48 consented by ordinance or resolution to the creation of the  
 1-49 district and to the inclusion of land in the district.

1-50 Sec. 7913A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-51 (a) The district is created to serve a public purpose and benefit.

1-52 (b) The district is created to accomplish the purposes of:

1-53 (1) a municipal utility district as provided by  
 1-54 general law and Section 59, Article XVI, Texas Constitution; and

1-55 (2) Section 52, Article III, Texas Constitution, that  
 1-56 relate to the construction, acquisition, improvement, operation,  
 1-57 or maintenance of macadamized, graveled, or paved roads, or  
 1-58 improvements, including storm drainage, in aid of those roads.

1-59 Sec. 7913A.0106. INITIAL DISTRICT TERRITORY. (a) The  
 1-60 district is initially composed of the territory described by

2-1 Section 2 of the Act enacting this chapter.

2-2 (b) The boundaries and field notes contained in Section 2 of  
 2-3 the Act enacting this chapter form a closure. A mistake made in the  
 2-4 field notes or in copying the field notes in the legislative process  
 2-5 does not affect the district's:

2-6 (1) organization, existence, or validity;

2-7 (2) right to issue any type of bond for the purposes  
 2-8 for which the district is created or to pay the principal of and  
 2-9 interest on a bond;

2-10 (3) right to impose a tax; or

2-11 (4) legality or operation.

2-12 SUBCHAPTER B. BOARD OF DIRECTORS

2-13 Sec. 7913A.0201. GOVERNING BODY; TERMS. (a) The district  
 2-14 is governed by a board of five elected directors.

2-15 (b) Except as provided by Section 7913A.0202, directors  
 2-16 serve staggered four-year terms.

2-17 Sec. 7913A.0202. TEMPORARY DIRECTORS. (a) On or after the  
 2-18 effective date of the Act enacting this chapter, the owner or owners  
 2-19 of a majority of the assessed value of the real property in the  
 2-20 district may submit a petition to the commission requesting that  
 2-21 the commission appoint as temporary directors the five persons  
 2-22 named in the petition. The commission shall appoint as temporary  
 2-23 directors the five persons named in the petition.

2-24 (b) Temporary directors serve until the earlier of:

2-25 (1) the date permanent directors are elected under  
 2-26 Section 7913A.0103; or

2-27 (2) January 1, 2026.

2-28 (c) If permanent directors have not been elected under  
 2-29 Section 7913A.0103 and the terms of the temporary directors have  
 2-30 expired, successor temporary directors shall be appointed or  
 2-31 reappointed as provided by Subsection (d) to serve terms that  
 2-32 expire on the earlier of:

2-33 (1) the date permanent directors are elected under  
 2-34 Section 7913A.0103; or

2-35 (2) the fourth anniversary of the date of the  
 2-36 appointment or reappointment.

2-37 (d) If Subsection (c) applies, the owner or owners of a  
 2-38 majority of the assessed value of the real property in the district  
 2-39 may submit a petition to the commission requesting that the  
 2-40 commission appoint as successor temporary directors the five  
 2-41 persons named in the petition. The commission shall appoint as  
 2-42 successor temporary directors the five persons named in the  
 2-43 petition.

2-44 SUBCHAPTER C. POWERS AND DUTIES

2-45 Sec. 7913A.0301. GENERAL POWERS AND DUTIES. The district  
 2-46 has the powers and duties necessary to accomplish the purposes for  
 2-47 which the district is created.

2-48 Sec. 7913A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND  
 2-49 DUTIES. The district has the powers and duties provided by the  
 2-50 general law of this state, including Chapters 49 and 54, Water Code,  
 2-51 applicable to municipal utility districts created under Section 59,  
 2-52 Article XVI, Texas Constitution.

2-53 Sec. 7913A.0303. AUTHORITY FOR ROAD PROJECTS. Under  
 2-54 Section 52, Article III, Texas Constitution, the district may  
 2-55 design, acquire, construct, finance, issue bonds for, improve,  
 2-56 operate, maintain, and convey to this state, a county, or a  
 2-57 municipality for operation and maintenance macadamized, graveled,  
 2-58 or paved roads, or improvements, including storm drainage, in aid  
 2-59 of those roads.

2-60 Sec. 7913A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
 2-61 road project must meet all applicable construction standards,  
 2-62 zoning and subdivision requirements, and regulations of each  
 2-63 municipality in whose corporate limits or extraterritorial  
 2-64 jurisdiction the road project is located.

2-65 (b) If a road project is not located in the corporate limits  
 2-66 or extraterritorial jurisdiction of a municipality, the road  
 2-67 project must meet all applicable construction standards,  
 2-68 subdivision requirements, and regulations of each county in which  
 2-69 the road project is located.

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

3-4 Sec. 7913A.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
3-5 ORDINANCE OR RESOLUTION. The district shall comply with all  
3-6 applicable requirements of any ordinance or resolution that is  
3-7 adopted under Section 54.016 or 54.0165, Water Code, and that  
3-8 consents to the creation of the district or to the inclusion of land  
3-9 in the district.

3-10 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-11 Sec. 7913A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
3-12 The district may issue, without an election, bonds and other  
3-13 obligations secured by:

- 3-14 (1) revenue other than ad valorem taxes; or
- 3-15 (2) contract payments described by Section  
3-16 7913A.0403.

3-17 (b) The district must hold an election in the manner  
3-18 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
3-19 before the district may impose an ad valorem tax or issue bonds  
3-20 payable from ad valorem taxes.

3-21 (c) The district may not issue bonds payable from ad valorem  
3-22 taxes to finance a road project unless the issuance is approved by a  
3-23 vote of a two-thirds majority of the district voters voting at an  
3-24 election held for that purpose.

3-25 Sec. 7913A.0402. OPERATION AND MAINTENANCE TAX. (a) If  
3-26 authorized at an election held under Section 7913A.0401, the  
3-27 district may impose an operation and maintenance tax on taxable  
3-28 property in the district in accordance with Section 49.107, Water  
3-29 Code.

3-30 (b) The board shall determine the tax rate. The rate may not  
3-31 exceed the rate approved at the election.

3-32 Sec. 7913A.0403. CONTRACT TAXES. (a) In accordance with  
3-33 Section 49.108, Water Code, the district may impose a tax other than  
3-34 an operation and maintenance tax and use the revenue derived from  
3-35 the tax to make payments under a contract after the provisions of  
3-36 the contract have been approved by a majority of the district voters  
3-37 voting at an election held for that purpose.

3-38 (b) A contract approved by the district voters may contain a  
3-39 provision stating that the contract may be modified or amended by  
3-40 the board without further voter approval.

3-41 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-42 Sec. 7913A.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
3-43 OBLIGATIONS. The district may issue bonds or other obligations  
3-44 payable wholly or partly from ad valorem taxes, impact fees,  
3-45 revenue, contract payments, grants, or other district money, or any  
3-46 combination of those sources, to pay for any authorized district  
3-47 purpose.

3-48 Sec. 7913A.0502. TAXES FOR BONDS. At the time the district  
3-49 issues bonds payable wholly or partly from ad valorem taxes, the  
3-50 board shall provide for the annual imposition of a continuing  
3-51 direct ad valorem tax, without limit as to rate or amount, while all  
3-52 or part of the bonds are outstanding as required and in the manner  
3-53 provided by Sections 54.601 and 54.602, Water Code.

3-54 Sec. 7913A.0503. BONDS FOR ROAD PROJECTS. At the time of  
3-55 issuance, the total principal amount of bonds or other obligations  
3-56 issued or incurred to finance road projects and payable from ad  
3-57 valorem taxes may not exceed one-fourth of the assessed value of the  
3-58 real property in the district.

3-59 SECTION 2. The Austin County Municipal Utility District No.  
3-60 1 initially includes all the territory contained in the following  
3-61 area:

3-62 A 38.118 acre, or 1,660,419 square feet more or less, tract of land,  
3-63 being a portion of that residue of called 38.143 acre tract of land  
3-64 conveyed to David Cryan as described in a deed recorded in Clerk's  
3-65 File No. 153921 of the Official Records of Austin County, Texas,  
3-66 situated in the San Felipe de Austin Survey, Abstract 5, in the City  
3-67 of Sealy, Austin County, Texas. Said 38.118 acre tract being more  
3-68 fully described as follows, with bearings based on the Texas  
3-69 Coordinate System of 1983, South Central Zone from the North

4-1 American Datum of 1983 (NA2011) epoch 2010.00:  
4-2 BEGINNING: At an iron rod with aluminum cap found in the  
4-3 centerline of Harrison Road (30 feet wide) as recorded under Volume  
4-4 Y, Page 318 of the Deed Records of Austin County, Texas and the  
4-5 northeast corner of said 38.143 acre tract and for the northeast  
4-6 corner of the herein described tract and being on the west  
4-7 right-of-way line of Schmidt Road (60 feet wide) a called 3.946  
4-8 acres of land as conveyed to the City of Sealy as recorded under  
4-9 Clerk's File No. 025841 of the official Records of Austin County,  
4-10 Texas;  
4-11 THENCE: S 42°42'31" W, along and with the said west right-of-way  
4-12 line, a distance of 2,864.13 feet to a point to a 1/2 inch iron pipe  
4-13 with cap stamped "Brown & Gay" found for the southeast corner of the  
4-14 herein described tract and being on the northeast line of a called  
4-15 237.88 acre tract as described in a deed to Wal-Mart Stores East, LP  
4-16 recorded under Clerk's File No. 031749 of the Official Records of  
4-17 Austin County, Texas;  
4-18 THENCE: N 47°18'41" W, along and with said northeast line, a  
4-19 distance of 578.43 feet to an iron rod with a yellow cap stamped  
4-20 "Pate-Dawson" to be set for the southwest corner of the herein  
4-21 described tract and the southeast corner of a called 70.00 acres of  
4-22 land conveyed to David Cryan as recorded in Clerk's File No. 126232  
4-23 of the Official Records of Austin County, Texas;  
4-24 THENCE: N 42°39'39" E, along with said north line, a distance of a  
4-25 distance of 2,865.17 feet to a 1/2 inch iron rod found in the said  
4-26 centerline of Harrison Road and for the northwest corner of the  
4-27 herein described tract and the northeast corner of said 70.00  
4-28 acres;  
4-29 THENCE: S 47°12'30" E, along said centerline of Harrison Road, a  
4-30 distance of 580.82 feet to the POINT OF BEGINNING, and containing  
4-31 38.118 acres in the City of Houston, Harris County, Texas.  
4-32 A 118.535 acre, or 5,163,385 square feet more or less, tract of  
4-33 land, being a portion of that residue of called 140.000 acre tract  
4-34 of land conveyed to Ranch County of Texas, Inc. as described in a  
4-35 deed recorded in Clerk's File No. 081189 of the Official Records of  
4-36 Austin County, Texas, and a portion of Tract 1, a residue of a  
4-37 called 55.3 acres of land conveyed to David Cryan as described in a  
4-38 deed recorded in Clerk's File No. 164420 of the Official Records of  
4-39 Austin County, Texas, and all of Tract 2, a called 28.172 acres of  
4-40 land conveyed to David Cryan as described in a deed recorded in  
4-41 Clerk's File No. 153921 of the Official Records of Austin County,  
4-42 Texas, and all of Tract 5, a called 6.1259 acres of land conveyed to  
4-43 David Cryan as described in a deed recorded in Clerk's File  
4-44 No. 164420 of the Official Records of Austin County, Texas, and all  
4-45 of Tract 4, a called 6.1259 acres of land conveyed to David Cryan as  
4-46 described in a deed recorded in Clerk's File No. 164420 of the  
4-47 Official Records of Austin County, Texas, and all of Tract 3, a  
4-48 called 6.1259 acres of land conveyed to David Cryan as described in  
4-49 a deed recorded in Clerk's File No. 164420 of the Official Records  
4-50 of Austin County, Texas, and all of Tract 2, a called 6.1259 acres  
4-51 of land conveyed to David Cryan as described in a deed recorded in  
4-52 Clerk's File No. 164420 of the Official Records of Austin County,  
4-53 Texas, and all of Parcel 1, a called 5.452 acres of land conveyed to  
4-54 David Cryan as described in a deed recorded in Clerk's File  
4-55 No. 191010 of the Official Records of Austin County, Texas, and all  
4-56 of Parcel 2, a called 5.350 acres of land conveyed to David Cryan as  
4-57 described in a deed recorded in Clerk's File No. 191010 of the  
4-58 Official Records of Austin County, Texas, situated in the San  
4-59 Felipe de Austin Survey, Abstract 5, in the City of Sealy, Austin  
4-60 County, Texas. Said 118.535 acre tract being more fully described  
4-61 as follows, with bearings based on the Texas Coordinate System of  
4-62 1983, South Central Zone from the North American Datum of 1983  
4-63 (NA2011) epoch 2010.00:  
4-64 BEGINNING: At an iron rod with aluminum cap found on the west  
4-65 right-of-way line of F.M. Highway No. 3013 (width varies) and the  
4-66 northeast corner of a called 38.69 acre tract of land conveyed to  
4-67 Jinsung T.E.C. Texas, L.L.C. Texas, L.L.C. as described in a deed  
4-68 recorded in Clerk's File No. 126413 of the Official Records of  
4-69 Austin County, Texas, and for the most northerly southeast corner

5-1 of the herein described tract;  
5-2 THENCE: N 47°17'47" W, a distance of 950.10 feet to a 5/8 inch iron  
5-3 rod found for an interior corner of the herein described tract and  
5-4 being the northwest corner of said 38.69 acres and on the east line  
5-5 of said Tract 1, a residue of a called 55.3 acres;  
5-6 THENCE: S 42°39'37" W, along the common line of said Tract 1, a  
5-7 residue of a called 55.3 acres and said 38.69 acres, a distance of  
5-8 1,774.20 feet to an iron rod with aluminum cap found for the  
5-9 southeast corner of said Tract 1, a residue of a called 55.3 acres  
5-10 and the southwest corner of said 38.69 acres and for the most  
5-11 southerly southeast corner of the herein described tract and on the  
5-12 northerly line of a called 6.362 acres of land conveyed to the City  
5-13 of Sealy, Texas as recorded in Clerk's File No. 031750 of the  
5-14 Official Records of Austin County, Texas;  
5-15 THENCE: N 47°18'41" W, along with said north line, a distance of  
5-16 1,607.38 feet to an iron rod with aluminum cap found on the east  
5-17 right-of-way line to Schmidt Road (60 feet wide) a called 3.946  
5-18 acres of land as conveyed to the City of Sealy as recorded under  
5-19 Clerk's File No. 025841 of the official Records of Austin County,  
5-20 Texas, and the southwest corner said Tract 2 of called 28.172 acres  
5-21 and the southwest corner of the herein described tract;  
5-22 THENCE: N 42°42'31" E, along the said east right-of-way line and  
5-23 along said Tract 2 of called 28.172 acres, a distance of 2,864.02  
5-24 feet to an iron rod with aluminum cap found in the centerline of  
5-25 Harrison Road (30 feet wide) as recorded under Volume Y, Page 318 of  
5-26 Deed Records of Austin County, Texas and the northwest corner of  
5-27 said Tract 2 of called 28.172 acres and the northwest corner of the  
5-28 herein described tract;  
5-29 THENCE: S 47°12'30" E, along and with said centerline of Harrison  
5-30 Road, a distance of 1,921.18 feet to a Mag Nail found for the most  
5-31 northerly northeast corner of the herein described tract and for  
5-32 the northeast corner of said Parcel 2 and the northwest corner of  
5-33 said Residue of called 140.000 acres;  
5-34 THENCE: S 42°38'14" W, along and with the east line of said Parcel  
5-35 2, a distance of 736.53 feet to an iron rod with aluminum cap found  
5-36 for an interior corner of the herein described tract and for the  
5-37 southeast corner of said Parcel 2;  
5-38 THENCE: S 47°18'33" E, departing said east line and along and with  
5-39 the north line of said Parcel 1, a distance of 633.63 feet to an iron  
5-40 rod with aluminum cap found on the west right-of-way line of said  
5-41 F.M. No. 3013 and the most southerly northeast corner of the herein  
5-42 described tract;  
5-43 THENCE: S 42°39'57" W, a distance of 350.05 feet to the POINT OF  
5-44 BEGINNING, and containing 118.535 acres in the City of Houston,  
5-45 Harris County, Texas.

5-46 SECTION 3. (a) The legal notice of the intention to  
5-47 introduce this Act, setting forth the general substance of this  
5-48 Act, has been published as provided by law, and the notice and a  
5-49 copy of this Act have been furnished to all persons, agencies,  
5-50 officials, or entities to which they are required to be furnished  
5-51 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
5-52 Government Code.

5-53 (b) The governor, one of the required recipients, has  
5-54 submitted the notice and Act to the Texas Commission on  
5-55 Environmental Quality.

5-56 (c) The Texas Commission on Environmental Quality has filed  
5-57 its recommendations relating to this Act with the governor, the  
5-58 lieutenant governor, and the speaker of the house of  
5-59 representatives within the required time.

5-60 (d) All requirements of the constitution and laws of this  
5-61 state and the rules and procedures of the legislature with respect  
5-62 to the notice, introduction, and passage of this Act are fulfilled  
5-63 and accomplished.

5-64 SECTION 4. (a) If this Act does not receive a two-thirds  
5-65 vote of all the members elected to each house, Subchapter C, Chapter  
5-66 7913A, Special District Local Laws Code, as added by Section 1 of  
5-67 this Act, is amended by adding Section 7913A.0306 to read as  
5-68 follows:  
5-69 Sec. 7913A.0306. NO EMINENT DOMAIN POWER. The district may

6-1 not exercise the power of eminent domain.

6-2 (b) This section is not intended to be an expression of a  
6-3 legislative interpretation of the requirements of Section 17(c),  
6-4 Article I, Texas Constitution.

6-5 SECTION 5. This Act takes effect January 1, 2022.

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