

By: Kolkhorst

S.B. No. 2203

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Waller County Municipal Utility
3 District No. 38; 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 7944A to read as follows:

9 CHAPTER 7944A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 38

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7944A.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. 38.

18 Sec. 7944A.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 7944A.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. 7944A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7944A.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. 7944A.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. 7944A.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. 7944A.0201. GOVERNING BODY; TERMS. (a) The district
4 is governed by a board of five elected directors.

5 (b) Except as provided by Section 7944A.0202, directors
6 serve staggered four-year terms.

7 Sec. 7944A.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Allison Thompson;

10 (2) Zachary Boyer;

11 (3) Mario Gobert Sr.;

12 (4) Sean Hewitt; and

13 (5) Jerry Peruchini.

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

15 (1) the date permanent directors are elected under
16 Section 7944A.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 7944A.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 7944A.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. 7944A.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. 7944A.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. 7944A.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. 7944A.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. 7944A.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. 7944A.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 7944A.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. 7944A.0402. OPERATION AND MAINTENANCE TAX. (a) If
5 authorized at an election held under Section 7944A.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. 7944A.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. 7944A.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. 7944A.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. 7944A.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 Waller County Municipal Utility District No.
12 38 initially includes all the territory contained in the following
13 area:

14 A description of 469.7 acres of land located in the Nathan W.
15 Bush Survey, Abstract 76, and the John L. Boatright Survey,
16 Abstract 81, Waller County, Texas, and out a called 69 acre tract
17 (First Tract) described in the deed to Paul Arrington Wood,
18 Trustee, recorded under Volume 634, Page 710, in the Deed Records of
19 Waller County, Texas, a called 84 acre tract (Second Tract)
20 described in the deed to Paul Arrington Wood, Trustee, recorded
21 under Volume 634, Page 710, in the Deed Records of Waller County,
22 Texas, the called 205 acre tract described in the deed to Paul
23 Arrington Wood, Trustee, recorded under Volume 634, Page 710, in
24 the Deed Records of Waller County, Texas, and the 236 acre tract
25 described in the deed to Paul Arrington Wood, Trustee, recorded
26 under Volume 551, Page 50 and Volume 551, Page 52, in the Deed
27 Records of Waller County, Texas, and more particularly described by

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1 metes and bounds as follows (all bearings referenced to the Texas
2 Coordinate System, South Central Zone (4204), NAD 83 (NA2011) Epoch
3 2010.00):

4 BEGINNING at a found fence post at the southeast corner of a
5 called 29.565 acre tract described in the deed to Huey Paul Beckham,
6 and wife, Carolyn Ann Beckham, recorded under Volume 319, Page 528,
7 in the Deed Records of Waller County, Texas, common to the southwest
8 corner of said 205 acre tract, and the southwest corner of the
9 herein described tract, in the north right-of-way line of Owens
10 Road (called 80 feet wide), (found to be 79.7 feet wide at this
11 point);

12 Thence, North $02^{\circ} 23' 59''$ West - 2515.78', along the west line
13 of said 205 acre tract, and along a west line of the aforesaid First
14 Tract, to a found fence post at the northeast corner of said 29.565
15 acre tract, common to an angle corner of the herein described tract;

16 Thence, South $87^{\circ} 20' 45''$ West - 297.31', along the north line
17 of said 29.565 acre tract, common to a south line of said First
18 Tract, to a found fence post at the most westerly southwest corner
19 of said First Tract, common to the southeast corner of a called
20 38.2977 acre tract, described as Tract 4B, described in the deed to
21 Cynthia Flukinger Stasny, recorded under Volume 410, Page 368, in
22 the Deed Records of Waller County, Texas;

23 Thence, North $02^{\circ} 27' 25''$ West - 818.17', along a west line of
24 said "First Tract" common to the east line of said Tract 4B, to a
25 1/2" iron rod with cap stamped "Precision Surveying" found for the
26 southwest corner of a called 97.1861 acre tract described in the
27 deed to Edmund and So King Chan recorded under File Number 1502533,

1 in the Official Public Records of Waller County, Texas;

2 Thence, North $86^{\circ} 09' 07''$ East - 3604.71', along the south line
3 of said 97.1861 acre tract, (at 2,196.59' passing a 1/2" iron rod
4 with cap stamped "Precision Surveying" found for the southeast
5 corner of said 97.1861 acre tract, common to the most northerly
6 northwest corner of aforesaid 205 acre tract), then continuing
7 along the north line of said 205 acre tract, common to the south
8 line of a called 25.453 acre tract (referenced as Tract 8) described
9 in the deed to Charley E. Richard and Eula P. Richard, recorded
10 under Volume 509, Page 221, in the Deed Records of Waller County,
11 Texas, and partially along the south line of a called 25.453 acre
12 tract (referenced as Tract 10) described in the deed to Charley E.
13 Richard and Eula P. Richard, recorded under Volume 646, Page 772, in
14 the Deed Records of Waller County, Texas to a 3/4" iron pipe found
15 for the northeast corner of said 205 acre tract, common to an angle
16 corner of said Tract 10, in the west line of aforesaid 236 acre
17 tract;

18 Thence, North $02^{\circ} 42' 37''$ West - 4.00', along the west line of
19 said 236 acre tract, common to an east line of said Tract 10, to a
20 5/8" iron rod with cap stamped "LJA SURVEY" set for an angle corner
21 of the herein described tract, common to the northwest corner of
22 said 236 acre tract, and an angle corner of said Tract 10;

23 Thence, North $86^{\circ} 01' 48''$ East - 2474.62', along a south line
24 of said Tract 10, common to the north line of said 236 acre tract,
25 (at 1042.89' passing a 3/4" iron rod found for the southeast corner
26 of said Tract 10, common to the southwest corner of the 25.4535 acre
27 tract referenced in the deed to Donald G. Keischnick and Grace A.

1 Keischnick, recorded under Volume 412, Page 337, in the Deed
2 Records of Waller County, Texas, and described as 25.453 acres
3 (Tract Twelve) in the deed recorded under Volume 224, Page 170, of
4 the Deed Records of Waller County, Texas) then continuing along the
5 north line of said 236 acre tract, common to the south line of said
6 Tract Twelve, to a 5/8" iron rod with cap stamped "LJA SURVEY" set
7 for the northeast corner of the herein described tract, common to
8 the southeast corner of said Tract Twelve, in the west right-of-way
9 line of F.M. 362 (80' right-of-way width);

10 Thence, South 20° 44' 44" East - 2131.42', along said west
11 right-of-way line, to a 5/8" iron rod with cap stamped "LJA SURVEY"
12 set for the beginning of a tangent curve to the right;

13 Thence, 896.48', along said west right-of-way line, along
14 said tangent curve to the right, having a radius of 2824.93', a
15 central angle of 18° 10' 57", and a chord bearing and distance of
16 South 11° 39' 01" East - 892.71' to a 5/8" iron rod with cap stamped
17 "LJA SURVEY" set for the end of curve;

18 Thence, South 02° 33' 44" West - 464.00', continuing along
19 said west right-of-way line, to a found 12" cedar post at the
20 intersection of said west right-of-way line and the north
21 right-of-way line of aforesaid Owens Road (found to be 80' wide at
22 this point), common to the southeast corner of the herein described
23 tract;

24 Thence, South 86° 25' 49" West - 2412.90', along the north
25 right-of-way line of said Owens Road, to a 5/8" iron rod with cap
26 stamped "LJA SURVEY" set for an interior corner of the herein
27 described tract (said Owens Road found to be 78.4' wide at this

1 point);

2 Thence, North 04° 27' 13" West - 1054.33', generally along the
3 west side of a gravel drive, to a 5/8" iron rod with cap stamped "LJA
4 SURVEY" set for an interior corner of the herein described tract;

5 Thence, North 82° 00' 12" West - 841.76', generally along a 4'
6 barbed wire fence, to a 5/8" iron rod with cap stamped "LJA SURVEY"
7 set for an interior corner of the herein described tract, in the
8 east line of aforesaid 205 acre tract, common to the west line of
9 aforesaid 236 acre tract;

10 Thence, South 02° 42' 37" East - 1223.17', along said common
11 line, (at 872.58' passing a 1/2" iron rod found for the northwest
12 corner of a called 2.016 acre tract described in the deed to Charles
13 J. Wood and Robyn A. Wood recorded under Volume 498, Page 493, in
14 the Deed Records of Waller County, Texas), then continuing along
15 said common line, and the west line of said 2.016 acre tract, to the
16 southwest corner of said 2.016 acre tract, in the north
17 right-of-way line of said Owens Road (found to be 77.5' wide at this
18 point), from which a bent 1/2" iron rod bears North 86° 34' 26" East
19 - 1.54'';

20 Thence, South 86° 34' 26" West - 3324.19', along the north
21 right-of-way line of said Owens Road, to the POINT OF BEGINNING and
22 containing 469.7 acres of land.

23 SECTION 3. (a) The legal notice of the intention to
24 introduce this Act, setting forth the general substance of this
25 Act, has been published as provided by law, and the notice and a
26 copy of this Act have been furnished to all persons, agencies,
27 officials, or entities to which they are required to be furnished

1 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
2 Government Code.

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

6 (c) The Texas Commission on Environmental Quality has filed
7 its recommendations relating to this Act with the governor, the
8 lieutenant governor, and the speaker of the house of
9 representatives within the required time.

10 (d) All requirements of the constitution and laws of this
11 state and the rules and procedures of the legislature with respect
12 to the notice, introduction, and passage of this Act are fulfilled
13 and accomplished.

14 SECTION 4. (a) If this Act does not receive a two-thirds
15 vote of all the members elected to each house, Subchapter C, Chapter
16 7944A, Special District Local Laws Code, as added by Section 1 of
17 this Act, is amended by adding Section 7944A.0306 to read as
18 follows:

19 Sec. 7944A.0306. NO EMINENT DOMAIN POWER. The district may
20 not exercise the power of eminent domain.

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

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

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1 Act takes effect September 1, 2021.