

By: Springer

S.B. No. 2257

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Northwest Denton County Municipal Utility District No. 1; 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 7933A to read as follows:

CHAPTER 7933A. NORTHWEST DENTON COUNTY MUNICIPAL UTILITY DISTRICT

NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7933A.0101. DEFINITIONS. In this chapter:

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

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

(3) "Director" means a board member.

(4) "District" means the Northwest Denton County Municipal Utility District No. 1.

Sec. 7933A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7933A.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 7933A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 7933A.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. 7933A.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. 7933A.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. 7933A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7933A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7933A.0202. TEMPORARY DIRECTORS. (a) The temporary
9 board consists of:

10 (1) Lance Martin;

11 (2) Jason Tuberville;

12 (3) Zach Stateson;

13 (4) Clarke Overlander; and

14 (5) Michelle Dobson.

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

16 (1) the date permanent directors are elected under
17 Section 7933A.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 7933A.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 7933A.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 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 7933A.0301. GENERAL POWERS AND DUTIES. The district
11 has the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. 7933A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
14 DUTIES. The district has the powers and duties provided by the
15 general law of this state, including Chapters 49 and 54, Water Code,
16 applicable to municipal utility districts created under Section 59,
17 Article XVI, Texas Constitution.

18 Sec. 7933A.0303. AUTHORITY FOR ROAD PROJECTS. Under
19 Section 52, Article III, Texas Constitution, the district may
20 design, acquire, construct, finance, issue bonds for, improve,
21 operate, maintain, and convey to this state, a county, or a
22 municipality for operation and maintenance macadamized, graveled,
23 or paved roads, or improvements, including storm drainage, in aid
24 of those roads.

25 Sec. 7933A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
26 road project must meet all applicable construction standards,
27 zoning and subdivision requirements, and regulations of each

1 municipality in whose corporate limits or extraterritorial
2 jurisdiction the road project is located.

3 (b) If a road project is not located in the corporate limits
4 or extraterritorial jurisdiction of a municipality, the road
5 project must meet all applicable construction standards,
6 subdivision requirements, and regulations of each county in which
7 the road project is located.

8 (c) If the state will maintain and operate the road, the
9 Texas Transportation Commission must approve the plans and
10 specifications of the road project.

11 Sec. 7933A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
12 ORDINANCE OR RESOLUTION. The district shall comply with all
13 applicable requirements of any ordinance or resolution that is
14 adopted under Section 54.016 or 54.0165, Water Code, and that
15 consents to the creation of the district or to the inclusion of land
16 in the district.

17 Sec. 7933A.0306. DIVISION OF DISTRICT. (a) The district
18 may be divided into two or more new districts only if the district:

19 (1) has no outstanding bond debt; and

20 (2) is not imposing ad valorem taxes.

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

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

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

5 (e) The board may adopt an order dividing the district
6 before or after the date the board holds an election under Section
7 7933A.0103 to confirm the district's creation.

8 (f) An order dividing the district shall:

9 (1) name each new district;

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

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

13 and

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

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

20 (h) Any new district created by the division of the district
21 shall hold a confirmation and directors' election as required by
22 Section 7933A.0103. If the voters of a new district do not confirm
23 the creation of the new district, the assets, obligations,
24 territory, and governance of the new district revert to the
25 original district.

26 (i) Municipal consent to the creation of the district and to
27 the inclusion of land in the district granted under Section

1 7933A.0104 acts as municipal consent to the creation of any new
2 district created by the division of the district and to the
3 inclusion of land in the new district.

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

8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

9 Sec. 7933A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)

10 The district may issue, without an election, bonds and other
11 obligations secured by:

- 12 (1) revenue other than ad valorem taxes; or
13 (2) contract payments described by Section
14 7933A.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. 7933A.0402. OPERATION AND MAINTENANCE TAX. (a) If

24 authorized at an election held under Section 7933A.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. 7933A.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. 7933A.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. 7933A.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. 7933A.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. The Northwest Denton County Municipal Utility
4 District No. 1 initially includes all the territory contained in
5 the following area:

6 BEING a tract of land situated in the William Mason Survey, Abstract
7 No. 801, the B.B.B. & C.R.R. Co. Survey, Abstract No. 199, and the
8 B.B.B. & C.R.R. Co. Survey, Abstract No. 1457, Denton County,
9 Texas, and being a portion of a called 55.27 acre tract of land
10 described in a Warranty Deed to Wilbur Clarence Hoehn, as recorded
11 in Instrument No. 1994-69063 of the Official Records of Denton
12 County, Texas, and also being all of Lots 1 thru 6, Block A of Saddle
13 Ridge Estates, according to the Final Plat thereof recorded in
14 Cabinet M, Page 241 of the Plat Records of Denton County, Texas, and
15 being all of a called 100.00 acre tract of land described as First
16 Tract and all of a called 76.691 acre tract of land described as
17 Second Tract in a Conveyance, Assignment and Deed to MER Energy,
18 LTD., as recorded in Instrument No. 2011- 110535 of the Official
19 Records of Denton County, Texas, in a Conveyance, Assignment and
20 Deed to Rudco Land, LLC, as recorded in Instrument No. 2017-16370 of
21 the Official Records of Denton County, Texas, and in Conveyance,
22 Assignment and Deed of Correction to Ira W. Silverman, Trustee of
23 the Tachina Rudman Trust, as recorded in Instrument No. 2019-142385
24 of the Official Records of Denton County, Texas, and being more
25 particularly described as follows:

26 BEGINNING at a mag nail set for the northwest corner of said 55.27
27 acre tract, common to the northeast corner of a 30 foot road

1 dedication shown on the Final Plat of said Saddle Ridge Estates,
2 being in the centerline of Hoehn Road, a variable width right of
3 way, and on the southerly line of a called 160.27 acre tract of land
4 described in a deed to Earthland Farms, LLC, as recorded in
5 Instrument No. 2017-144271 of the Official Records of Denton
6 County, Texas;

7 THENCE South 89°36'45" East, along the northerly line of said 55.27
8 acre tract, the southerly line of said 160.27 acre tract, the
9 southerly line of a called 10.01 acre tract of land described in a
10 deed to Miguel Del Rosario Vinales and Souvanna Del Rosario
11 Vinales, as recorded in Instrument No. 2018-84116 of the Official
12 Records of Denton County, Texas, the southerly line of a called
13 10.01 acre tract of land described in a deed to Christopher M.
14 Conely and Dawn M. Conely, as recorded in Instrument No. 2019-65759
15 of the Official Records of Denton County, Texas, the southerly line
16 of a called 10.01 acre tract of land described in a deed to Yadira
17 Alvarado, as recorded in Instrument No. 2019-903 of the Official
18 Records of Denton County, Texas, the southerly line of a called
19 10.01 acre tract of land described in a deed to Armando Olvera,
20 Isidro Olvera and Olivia Olvera, as recorded in Instrument No.
21 2018-111054 of the Official Records of Denton County, Texas, and
22 the centerline of said Hoehn Road, a distance of 2056.33 feet to a
23 point for corner;

24 THENCE South 0°29'54" West, departing the centerline of said Hoehn
25 Road, and crossing said 55.27 acre tract, a distance of 826.73 feet
26 to a point for corner on the southerly line of said 55.27 acre tract
27 and on the northerly line of a called 104.5051 acre tract of land

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1 described in a deed to Charles E. Stobaugh, as recorded in Volume
2 2827, Page 965 of the Deed Records of Denton County, Texas;

3 THENCE along the common line of said 55.27 acre tract and said
4 104.5051 acre tract, the following courses and distances:

5 South 87°03'58" West, a distance of 359.14 feet to a metal
6 fence post found for an ell corner of said 55.27 acre tract,
7 common to the northerly northwest corner of said 104.5051
8 acre tract;

9 South 2°15'37" West, a distance of 183.36 feet to a 1/2 inch
10 iron rod for the southerly southeast corner of said 55.27
11 acre tract, common to an ell corner of said 104.5051 acre
12 tract;

13 North 89°56'04" West, a distance of 1688.00 feet to a 1/2 inch
14 iron rod with plastic cap stamped "RPLS 4561" found for the
15 southwest corner of said 55.27 acre tract, common to the
16 southerly northwest corner of said 104.5051 acre tract, being
17 on the easterly line of said Lot 6;

18 THENCE South 0°15'53" West, along the easterly line of said Lot 6 and
19 the westerly line of said 104.5051 acre tract, a distance of 1736.32
20 feet to a 1/2 inch iron rod found for the southeast corner of said
21 Lot 6, common to the southwest corner of said 104.5051 acre tract,
22 the northwest corner of a called 145.493 acre tract of land
23 described in a deed to FFILP Land Holdings, LLC, as recorded in
24 Instrument No. 2019-51911 of the Official Records of Denton County,
25 Texas, and the northeast corner of a called 26.008 acre tract of
26 land described in a deed to Dale P. McCurley, as recorded in Volume
27 1041, Page 494 of the Deed Records of Denton County, Texas;

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1 THENCE North 89°57'58" West, along the southerly lines of said Lots
2 1 thru 6, the northerly line of said 26.008 acre tract, the
3 northerly line of a tract of land described in a deed to Carl
4 McCurley, Henry Thompson and V.H. Ward, Jr., as recorded in Volume
5 663, Page 80 of the Deed Records of Denton County, Texas, the
6 northerly line of a called 13.004 acre tract of land described in a
7 deed to McCurley Ranch, Ltd., as recorded in Instrument No.
8 1999-126276 of the Official Records of Denton County, Texas, the
9 northerly line of a called 26.008 acre tract of land described as
10 Tract 1 in a deed to McCurley Ranch, Ltd., as recorded in Instrument
11 No. 1999- 126276 of the Official Records of Denton County, Texas,
12 and the northerly line of a called 78.473 acre tract of land
13 described in a deed to Ray Sullivan Carson, as recorded in Volume
14 478, Page 599 of the Deed Records of Denton County, Texas, a
15 distance of 2531.49 feet to a metal post found for the southwest
16 corner of said Lot 1, common to the northwest corner of said 78.473
17 acre tract, being on the easterly line of a called 100 acre tract of
18 land described in a deed to Adrian J. Butler, Jr., and Margaret J.
19 Butler, as recorded in Instrument No. 1995-47603 of the Official
20 Records of Denton County, Texas;

21 THENCE North 0°14'24" East, along the westerly line of said Lot 1 and
22 the easterly line of said 100 acre tract, a distance of 226.41 feet
23 to the northeast corner of said 100 acre tract, common to the
24 southeast corner of aforesaid Second Tract;

25 THENCE North 89°29'36" West, departing the westerly line of said
26 Saddle Ridge Estates, along the southerly line of said Second Tract
27 and the northerly line of said 100 acre tract, a distance of 2983.73

1 feet to a mag nail set for corner the southwest corner of said
2 Second Tract, common to the northwest corner of said 100 acre tract,
3 being in Lois Road, a variable width right-of-way, and on the
4 easterly line of a called 84.23 acre tract of land described in a
5 deed to Earthland Farms, LLC, as recorded in Instrument No.
6 2018-88474 of the Official Records of Denton County, Texas;
7 THENCE North 0°14'24" East, along the westerly lines of said First
8 and Second Tract, the easterly line of said 84.23 acre tract, and
9 said Lois Road, a distance of 2577.69 feet to a mag nail set for
10 northwest corner of said First Tract, being on the northerly
11 right-of-way line of aforesaid Hoehn Road;
12 THENCE South 89°55'36" East, departing said Lois Road, along the
13 northerly line of said First Tract and the northerly right-of-way
14 line of said Hoehn Road, a distance of 2983.71 feet to a 60D Nail
15 found for the northeast corner of said First Tract, being on the
16 northerly right-of-way line of Hoehn Road, a variable width
17 right-of-way;
18 THENCE South 0°14'24" West, departing the northerly right-of-way
19 line of said Hoehn Road, crossing said Hoehn Road and along the
20 easterly line of said First Tract, a distance of 50.84 feet to the
21 northwest corner of said Lot 1, same being on the southerly
22 right-of-way line of said Hoehn Road;
23 THENCE South 89°18'18" East, departing the easterly line of said
24 First Tract, along northerly lines of said Lots 1 thru 6, the
25 southerly line of said 30 foot wide road dedication and the
26 southerly right-of-way line of said Hoehn Road, a distance of
27 2532.73 feet to the northeast corner of said Lot 6, being on the

1 westerly line of aforesaid 55.27 acre tract;
2 THENCE North 0°15'53" East, along the easterly line of said 30 foot
3 wide road dedication, the easterly right-of-way line of said Hoehn
4 Road, and the westerly line of said 55.27 acre tract, a distance of
5 30.00 feet to the POINT OF BEGINNING and containing 385.028 acres
6 (16,771,817 square feet) of land, more or less.
7 Bearing system based on the Texas Coordinate System of 1983, North
8 Central Zone (4202), North American Datum of 1983.

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

16 (b) The governor, one of the required recipients, has
17 submitted the notice and Act to the Texas Commission on
18 Environmental Quality.

19 (c) The Texas Commission on Environmental Quality has filed
20 its recommendations relating to this Act with the governor, the
21 lieutenant governor, and the speaker of the house of
22 representatives within the required time.

23 (d) All requirements of the constitution and laws of this
24 state and the rules and procedures of the legislature with respect
25 to the notice, introduction, and passage of this Act are fulfilled
26 and accomplished.

27 SECTION 4. (a) If this Act does not receive a two-thirds

1 vote of all the members elected to each house, Subchapter C, Chapter
2 7933A, Special District Local Laws Code, as added by Section 1 of
3 this Act, is amended by adding Section 7933A.0307 to read as
4 follows:

5 Sec. 7933A.0307. NO EMINENT DOMAIN POWER. The district may
6 not exercise the power of eminent domain.

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

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