

By: Springer

S.B. No. 2259

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Clear Sky Municipal Utility District No. 1 of Cooke County; granting a limited power of eminent domain.

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 7954A to read as follows:

CHAPTER 7954A. CLEAR SKY MUNICIPAL UTILITY DISTRICT NO. 1 OF COOKE COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7954A.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 Clear Sky Municipal Utility District No. 1 of Cooke County.

Sec. 7954A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7954A.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 directors as provided by Section 49.102, Water Code.

1 Sec. 7954A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7954A.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. 7954A.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. 7954A.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. 7954A.0201. GOVERNING BODY; TERMS. (a) The district
4 is governed by a board of five elected directors.

5 (b) Except as provided by Section 7954A.0202, directors
6 serve staggered four-year terms.

7 Sec. 7954A.0202. TEMPORARY DIRECTORS. (a) On or after
8 September 1, 2021, the owner or owners of a majority of the assessed
9 value of the real property in the district may submit a petition to
10 the commission requesting that the commission appoint as temporary
11 directors the five persons named in the petition. The commission
12 shall appoint as temporary directors the five persons named in the
13 petition.

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

15 (1) the date permanent directors are elected under
16 Section 7954A.0103; or

17 (2) September 1, 2025.

18 (c) If permanent directors have not been elected under
19 Section 7954A.0103 and the terms of the temporary directors have
20 expired, successor temporary directors shall be appointed or
21 reappointed as provided by Subsection (d) to serve terms that
22 expire on the earlier of:

23 (1) the date permanent directors are elected under
24 Section 7954A.0103; or

25 (2) the fourth anniversary of the date of the
26 appointment or reappointment.

27 (d) If Subsection (c) applies, the owner or owners of a

1 majority of the assessed value of the real property in the district
2 may submit a petition to the commission requesting that the
3 commission appoint as successor temporary directors the five
4 persons named in the petition. The commission shall appoint as
5 successor temporary directors the five persons named in the
6 petition.

7 SUBCHAPTER C. POWERS AND DUTIES

8 Sec. 7954A.0301. GENERAL POWERS AND DUTIES. The district
9 has the powers and duties necessary to accomplish the purposes for
10 which the district is created.

11 Sec. 7954A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
12 DUTIES. The district has the powers and duties provided by the
13 general law of this state, including Chapters 49 and 54, Water Code,
14 applicable to municipal utility districts created under Section 59,
15 Article XVI, Texas Constitution.

16 Sec. 7954A.0303. AUTHORITY FOR ROAD PROJECTS. Under
17 Section 52, Article III, Texas Constitution, the district may
18 design, acquire, construct, finance, issue bonds for, improve,
19 operate, maintain, and convey to this state, a county, or a
20 municipality for operation and maintenance macadamized, graveled,
21 or paved roads, or improvements, including storm drainage, in aid
22 of those roads.

23 Sec. 7954A.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. 7954A.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 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 7954A.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 7954A.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. 7954A.0402. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 7954A.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. 7954A.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. 7954A.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. 7954A.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. 7954A.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 Clear Sky Municipal Utility District No. 1 of
11 Cooke County initially includes all the territory contained in the
12 following area:

13 TRACT ONE

14 FIELD NOTES TO 179.94 ACRES IN THE JOHN ADDA SURVEY ABSTRACT 1177,
15 ET AL, COOKE COUNTY, TEXAS

16 All that certain tract or parcel of land situated in the John Adda
17 Survey Abstract 1177 and the E. Bradley Survey Abstract 34, Cooke
18 County, Texas, being part of a 293.56 acre tract conveyed by Rose
19 Marie Strickland, Trustee to Earl L. Bengtston by deed recorded in
20 Volume 1022, page 263, of the Cooke County Official Public Records,
21 and being more particularly described as follows:

22 BEGINNING at a found steel pin at the Northeast corner of said
23 Bengtston tract, common to the Southeast corner of a tract conveyed
24 to Alvrone Sater by deed recorded in Volume 734, page 275 of the
25 Cooke County Deed Records, in County Road 200, on the West line of a
26 tract conveyed to John Porter Farms, Inc. by deed recorded in Volume
27 626, page 123 of said Deed Records, said beginning corner further

1 being South 00 degrees 11 minutes 30 seconds East, a distance of
2 1219.85 feet from the Southwest corner of the J. R. Davis Survey
3 Abstract 334 in Cooke County.

4 THENCE South 00 degrees 11 minutes 30 seconds East, in said County
5 Road 200, crossing the South line of said Adda Survey, common to the
6 North line of said Bradley Survey, continuing a total of 2824.05
7 feet to a found steel pin at the Easternmost Southeast corner of
8 said John Porter Farms tract, on the North line of a tract conveyed
9 to Alvrone Sater, Trustee, by deed recorded in Volume 734, page 271
10 of said Deed Records, at a turn in said County Road 200, on the South
11 line of Cooke County, common to the North line of Denton County as
12 described in said Bengtston deed;

13 THENCE North 89 degrees 51 minutes 52 seconds West, with said North
14 line of said Sater tract, a distance of 40.68 feet to a found steel
15 pin;

16 THENCE South 89 degrees 45 minutes 12 seconds West, a distance of
17 3012.78 feet to a found steel pin at the Southernmost Southeast
18 corner of a tract conveyed to Troy P. Miller, Jr. by deed recorded
19 in Volume 805, page 156 of said Deed Records;

20 THENCE with an old fence line the following courses and distances:

21 North 07 degrees 55 minutes 34 seconds East, crossing the
22 line common to said Adda and Bradley Surveys, a distance of 745.34
23 feet to a found steel pin,

24 North 19 degrees 20 minutes 59 seconds East, a distance of
25 105.60 feet to a found steel pin,

26 North 10 degrees 07 minutes 43 seconds East, a distance of
27 796.69 feet to a found steel pin,

1 North 72 degrees 35 minutes 49 seconds East, a distance of
2 201.96 feet to a found steel pin;
3 THENCE North 00 degrees 20 minutes 42 seconds East, along or near a
4 fence, a distance of 1157.87 feet to a found steel pin at the
5 Southwest corner of said Sater tract;
6 THENCE South 89 degrees 55 minutes 19 seconds East, along or near a
7 fence, passing a found steel pin at a fence corner on the West line
8 of said County Road 200, continuing a total of 2566.42 feet to the
9 point of beginning containing 179.94 acres of land.

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

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

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

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

1 SECTION 4. (a) If this Act does not receive a two-thirds
2 vote of all the members elected to each house, Subchapter C, Chapter
3 7954A, Special District Local Laws Code, as added by Section 1 of
4 this Act, is amended by adding Section 7954A.0306 to read as
5 follows:

6 Sec. 7954A.0306. NO EMINENT DOMAIN POWER. The district may
7 not exercise the power of eminent domain.

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

11 SECTION 5. This Act takes effect September 1, 2021.