

Jon Niermann, *Chairman*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 27, 2023

The Honorable Dan Patrick
Lieutenant Governor of Texas
Capitol Station
PO Box 12068
Austin, Texas 78711

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

Senate Bill (SB) 2579, as Filed by Senator Judith Zaffirini - Relating to the creation of the Guadalupe County Municipal Utility District No. 8; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

Dear Governor Patrick:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele Risko".

Michele Risko, Acting Deputy Director
Water Supply Division

cc: Honorable Paul Bettencourt, Chairman, Senate Local Government Committee
Senator Judith Zaffirini, Texas Senate

Enclosure

**SB 2579, as Filed by Senator Judith Zaffirini
Texas Commission on Environmental Quality's Comments**

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ), has determined that:

This bill creates Guadalupe County Municipal Utility District No. 8 (the "District") with the powers and duties of a standard municipal utility district under Water Code Chapters 49 and 54.

Comments on Powers/Duties Different from Similar Types of Districts:

The District must receive consent to the creation of the District from each municipality in whose corporate limits or extraterritorial jurisdiction the District is located prior to holding a confirmation election. The bill requires the TCEQ to appoint the five initial temporary directors upon receipt of a petition from the owners of a majority of the assessed value of the real property in the district. The bill grants the District authority for road projects. The bill allows the District to divide. The bill specifies that at the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of real property in the District. The District may not exercise the power of eminent domain if the bill does not receive a two-thirds vote of all the members elected to each house.

Overlapping Services: TCEQ does not have mapping information for water and/or wastewater providers because this function was transferred from the TCEQ to the Public Utility Commission on September 1, 2014. As a result, TCEQ is unaware of possible overlapping service providers.

TCEQ's Supervision: As with general law districts, the TCEQ will have general supervisory authority, including bond review authority and review of financial reports.

LETTER OF TRANSMITTAL
TEXAS SENATE
STATE OF TEXAS

SB 2579

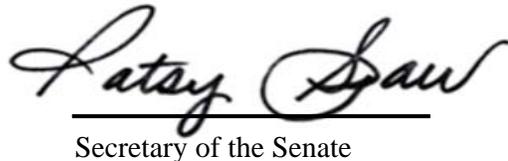
Bill Number

TO: The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

3/23/2023

Date transmitted to
Governor's Office


Secretary of the Senate

TO: Texas Commission on Environmental Quality
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to conservation and reclamation district and a copy of the notice of intention to introduce the bill.

March 31, 2023

Date transmitted to
Texas Commission on Environmental Quality


Governor

TO: The Honorable President of the Senate
The Honorable Speaker of the House of Representatives
The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.


Texas Commission on Environmental Quality

By: Zaffirini

S.B. No. 2579

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Guadalupe County Municipal Utility
3 District No. 8; 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 7976A to read as follows:

9 CHAPTER 7976A. GUADALUPE COUNTY MUNICIPAL UTILITY DISTRICT NO. 8

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7976A.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 Guadalupe County Municipal
17 Utility District No. 8.

18 Sec. 7976A.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 7976A.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. 7976A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7976A.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, as required
7 by applicable law.

8 Sec. 7976A.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. 7976A.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. 7976A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7976A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7976A.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 7976A.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 7976A.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 7976A.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. 7976A.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. 7976A.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. 7976A.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. 7976A.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. 7976A.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. 7976A.0306. DIVISION OF DISTRICT. (a) The board, on
18 its own motion or on receipt of a petition signed by the owner or
19 owners of a majority of the assessed value of the real property in
20 the district, may adopt an order dividing the district.

21 (b) An order dividing a district may create one or more new
22 districts and may provide for the continuation of the district.

23 (c) An order dividing the district shall:

24 (1) name any new district;

25 (2) include the metes and bounds description of the
26 territory of each of the districts;

27 (3) appoint temporary directors for any new district;

1 and

2 (4) provide for the division of assets and liabilities
3 between the districts.

4 (d) The board may adopt an order dividing the district
5 before or after the date the board holds an election to confirm the
6 district's creation.

7 (e) The district may be divided only if the district:

8 (1) has never issued any bonds; and

9 (2) is not imposing ad valorem taxes.

10 (f) A new district created by the division of the district
11 may not, at the time the new district is created, contain any land
12 outside the area described by Section 2 of the Act enacting this
13 chapter.

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

18 (h) This chapter applies to any new district created by the
19 division of the district, and a new district has all the powers and
20 duties of the district.

21 (i) A new district created by the division of the district
22 shall hold a confirmation and directors' election.

23 (j) If the creation of the new district is confirmed, the
24 new district shall provide the election date and results to the
25 commission.

26 (k) A new district created by the division of the district
27 must hold an election as required by this chapter to obtain voter

1 approval before the district may impose a maintenance tax or issue
2 bonds payable wholly or partly from ad valorem taxes.

3 (l) The district may continue to rely on confirmation,
4 directors', bond, or tax elections held prior to the division.

5 (m) Municipal consent to the creation of the district and to
6 the inclusion of land in the district acts as municipal consent to
7 the creation of any new district created by the division of the
8 district and to the inclusion of land in the new district.

9 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

10 Sec. 7976A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
11 The district may issue, without an election, bonds and other
12 obligations secured by:

- 13 (1) revenue other than ad valorem taxes; or
14 (2) contract payments described by Section
15 7976A.0403.

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

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

24 Sec. 7976A.0402. OPERATION AND MAINTENANCE TAX. (a) If
25 authorized at an election held under Section 7976A.0401, the
26 district may impose an operation and maintenance tax on taxable
27 property in the district in accordance with Section 49.107, Water

1 Code.

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

4 Sec. 7976A.0403. CONTRACT TAXES. (a) In accordance with
5 Section 49.108, Water Code, the district may impose a tax other than
6 an operation and maintenance tax and use the revenue derived from
7 the tax to make payments under a contract after the provisions of
8 the contract have been approved by a majority of the district voters
9 voting at an election held for that purpose.

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

13 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

14 Sec. 7976A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
15 OBLIGATIONS. The district may issue bonds or other obligations
16 payable wholly or partly from ad valorem taxes, impact fees,
17 revenue, contract payments, grants, or other district money, or any
18 combination of those sources, to pay for any authorized district
19 purpose.

20 Sec. 7976A.0502. TAXES FOR BONDS. At the time the district
21 issues bonds payable wholly or partly from ad valorem taxes, the
22 board shall provide for the annual imposition of a continuing
23 direct ad valorem tax, without limit as to rate or amount, while all
24 or part of the bonds are outstanding as required and in the manner
25 provided by Sections 54.601 and 54.602, Water Code.

26 Sec. 7976A.0503. BONDS FOR ROAD PROJECTS. At the time of
27 issuance, the total principal amount of bonds or other obligations

1 issued or incurred to finance road projects and payable from ad
2 valorem taxes may not exceed one-fourth of the assessed value of the
3 real property in the district.

4 SECTION 2. The Guadalupe County Municipal Utility District
5 No. 8 initially includes all the territory contained in the
6 following area:

7 Being 248.5 acres of land situated in the Josias Randolph
8 Survey, Abstract No. 276 and the James Hodges Survey, Abstract
9 No. 148, Guadalupe County, Texas; said 248.5 acres being comprised
10 of a portion of a called 159.45 acre tract of land in the name of
11 NESH 7 Hills, LP as recorded in a General Warranty Deed in Document
12 Number 202299019360, Official Public Records of Guadalupe County
13 (O.P.R.G.C.) as Exhibit "A", and all of a called 91.04 acre tract of
14 land in the name of NESH 7 Hills, LP as recorded in said General
15 Warranty Deed as Exhibit "B"; said 248.5 acre tract being more
16 particularly described by metes and bounds as follows (all bearings
17 are referenced to the Texas Coordinate System, North American Datum
18 of 1983 (NAD83), South Central Zone);

19 Beginning at the most northerly corner of said 159.45 acre
20 tract, being the northwesterly corner of a called 39.86 acre tract
21 of land recorded in the name of Robert Kidnew (no deed information
22 found), also being on the southerly Right-of-Way (R.O.W.) line of
23 Interstate Highway 10 (IH 10);

24 Thence, with the common line between said 159.45 acre tract
25 and said 39.86 acre tract, South 41 degrees 33 minutes 50 seconds
26 East, a distance of 2,224.03 feet to the most easterly corner of
27 said 159.45 acre tract, being the most northerly corner of

1 aforesaid 91.04 acre tract, the southerly corner of said 39.86 acre
2 tract and the most westerly corner of a called 51.89 acre tract
3 recorded in the names of Juan and Jose Castillo in Volume 4185, Page
4 934, O.P.R.G.C.;

5 Thence, with the common line between said 91.04 acre tract
6 and said 51.89 acre tract, the following four (4) courses and
7 distances:

8 1. South 40 degrees 49 minutes 54 seconds East, a distance
9 of 716.44 feet;

10 2. South 46 degrees 49 minutes 19 seconds West, a distance
11 of 22.34 feet;

12 3. South 40 degrees 51 minutes 37 seconds East, a distance
13 of 869.00 feet;

14 4. North 48 degrees 34 minutes 46 seconds East, a distance
15 of 246.36 feet to the northeasterly corner of said 91.04 acre tract,
16 being on the westerly R.O.W. line of Dart Field Road;

17 Thence, with the easterly line of said 91.04 acre tract and
18 the westerly R.O.W. line of said Dart Field Road, South 03 degrees
19 26 minutes 57 seconds West, a distance of 1,141.98 feet to the
20 southeasterly corner of said 91.04 acre tract, being the most
21 easterly corner of a called 62.46 acre tract of land recorded in the
22 name of Mary Mergele (no deed information found);

23 Thence, with the common line between said 91.04 acre tract
24 and said 62.46 acre tract, the following three (3) courses and
25 distances;

26 1. South 60 degrees 28 minutes 33 seconds West, a distance
27 of 1,052.86 feet;

1 2. North 23 degrees 36 minutes 29 seconds West, a distance
2 of 640.11 feet;

3 3. South 48 degrees 26 minutes 08 seconds West, a distance
4 of 487.65 feet to an interior corner of said 91.04 acre tract, being
5 the southeasterly corner of a called 60.00 acre tract of land
6 recorded in the name of Richard Mergele in Document Number
7 202199016163, O.P.R.G.C.;

8 Thence, with the common line between said 91.04 acre tract
9 and said 60.00 acre tract, North 40 degrees 54 minutes 12 seconds
10 West, a distance of 1,549.99 feet the northwesterly corner of said
11 91.04 acre tract, being the most northerly corner of said 60.00 acre
12 tract, also being on the southerly line of aforesaid 159.45 acre
13 tract;

14 Thence, with the common line between said 159.45 acre tract
15 and said 60.00 acre tract, South 47 degrees 58 minutes 18 seconds
16 West, a distance of 1,692.34 feet to the most southerly corner of
17 said 159.45 acre tract, being the westerly corner of said 60.00 acre
18 tract, also being on the easterly line of a called 141.59 acre tract
19 of land recorded in the name of Abner Ussery in Volume 133, Page
20 381, O.P.R.G.C.;

21 Thence, with the common line between said 159.45 acre tract
22 and said 141.59 acre tract, North 39 degrees 48 minutes 06 seconds
23 West, a distance of 1,303.20 feet to the most westerly corner of
24 said 159.45 acre tract, being the southwesterly corner of a called
25 67.01 acre tract of land recorded in the name of Abner Ussery (no
26 deed information found);

27 Thence, with the common line between said 159.45 acre tract

1 and said 67.01 acre tract, the following two (2) courses and
2 distances;

3 North 48 degrees 35 minutes 44 seconds East, a distance of
4 1,783.49 feet;

5 North 40 degrees 37 minutes 01 second West, 1,244.08 feet to
6 the southerly line of a called 2.13 acre tract conveyed to Catrina
7 Lewis in Warranty Deed recorded in Document Number 201899027872,
8 O.P.R.G.C.

9 Thence, with the southeasterly line of said 2.13 acre tract
10 the following four (4) courses;

11 1. North 38 degrees 19 minutes 00 seconds East, a distance
12 of 136.58 feet;

13 2. North 04 degrees 38 minutes 55 seconds East, a distance
14 of 150.74 feet;

15 3. North 29 degrees 03 minutes 42 seconds West, a distance
16 of 137.41 feet;

17 4. North 00 degrees 08 minutes 43 seconds West, a distance
18 of 96.17 feet to the northerly line of said 159.45 acre tract and
19 the northeasterly corner of said 2.13 acre tract, also being on the
20 southerly line of aforesaid IH 10;

21 Thence, with the northerly line of said 159.45 acre tract and
22 the southerly R.O.W. line of said IH 10, North 72 degrees 09 minutes
23 51 seconds East, a distance of 1,548.01 feet to the Point of
24 Beginning and containing 248.5 acres of land.

25 SECTION 3. (a) The legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished
3 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4 Government Code.

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

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

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

16 SECTION 4. (a) If this Act does not receive a two-thirds
17 vote of all the members elected to each house, Subchapter C, Chapter
18 7976A, Special District Local Laws Code, as added by Section 1 of
19 this Act, is amended by adding Section 7976A.0307 to read as
20 follows:

21 Sec. 7976A.0307. NO EMINENT DOMAIN POWER. The district may
22 not exercise the power of eminent domain.

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

26 SECTION 5. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2023.

