By:  Thompson of Harris (Senate Sponsor - Miles) H.B. No. 5386

(In the Senate - Received from the House May 15, 2023; May 15, 2023, read first time and referred to Committee on Local Government; May 19, 2023, reported favorably by the following vote: Yeas 9, Nays 0; May 19, 2023, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Bettencourt       X

Springer          X

Eckhardt          X

Gutierrez         X

Hall              X

Nichols           X

Parker            X

Paxton            X

West              X

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Harris County Municipal Utility District No. 589; 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 8005A to read as follows:

CHAPTER 8005A. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 589

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8005A.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 Harris County Municipal Utility District No. 589.

Sec. 8005A.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8005A.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.

Sec. 8005A.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8005A.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district as required by applicable law.

Sec. 8005A.0105.  FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

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

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

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

Sec. 8005A.0106.  INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1)  organization, existence, or validity;

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

(3)  right to impose a tax; or

(4)  legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8005A.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 8005A.0202, directors serve staggered four-year terms.

Sec. 8005A.0202.  TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1)  Steven Thorin;

(2)  Ethan Zenzen;

(3)  Creager Davis;

(4)  Greg Monette; and

(5)  Christy Nayes Bowen.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 8005A.0103; or

(2)  the fourth anniversary of the effective date of the Act enacting this chapter.

(c)  If permanent directors have not been elected under Section 8005A.0103 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1)  the date permanent directors are elected under Section 8005A.0103; or

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

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

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8005A.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8005A.0302.  MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8005A.0303.  AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8005A.0304.  ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

Sec. 8005A.0305.  COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8005A.0401.  ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1)  revenue other than ad valorem taxes; or

(2)  contract payments described by Section 8005A.0403.

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

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

Sec. 8005A.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8005A.0401, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 8005A.0403.  CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8005A.0501.  AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8005A.0502.  TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8005A.0503.  BONDS FOR ROAD PROJECTS. 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 the real property in the district.

SECTION 2.  The Harris County Municipal Utility District No. 589 initially includes all the territory contained in the following area:

BEING 177.5513 acres of land in the Eli Noland Survey, Abstract Number 600, City of Houston, Harris County, Texas, being out of that certain 259 acre tract of land described in deed to Max Taub and Sam Taub, recorded in Volume 240, Page 227 of the Harris County Deed Records and being part of that tract described as Tract 4 in the deed to Saltmine Investment Partnership, LTD., recorded in Harris County Clerk's File Number U711769, and being more particularly described by metes and bounds as follows:

COMMENCING from a 5/8 inch iron rod found in the south line of Little York Road (width varies) at the northwest corner of a 10.00 acre tract of land described in deed to North Forest Independent School District and recorded in Volume 4512, Page 38 of the Harris County Deed Records;

THENCE S.02°17'20"E. 1039.16 feet along the west line of said 10.00 acre tract to a 5/8 inch iron rod with "ATKINSON 5897" cap found in the center line of a 80 foot wide Harris County Flood Control District drainage easement as described in Volume 3171, Page 105 of the Harris County Deed Records; marking the PLACE OF BEGINNING for the herein described tract;

THENCE S.56°33'02"E. 432.20 feet along the centerline of said 80 foot wide Harris County Flood Control District drainage easement to a point being the northwest corner of a tract of land described in deed to GC Community Development Corporation INC. and recorded in Harris County Clerk's File Number RP-2020-539585;

THENCE S.02°17'20"E. 2556.76 feet along the west line of said GC Community Development Corporation INC. tract of land, and the west line of a the Cockburn Tract, an unrecorded subdivision to a 2 inch iron pipe found in the north line of a tract described in deed to Caddo 67 LLC, and recorded in Harris County Clerk's File Number RP-2020-286028;

THENCE S.87°26'22"W. 3390.12 feet along the north line of said Caddo 67 LLC, tract and the north line of Melbourne Place, Section Three Subdivision recorded in Volume 49, Page 37 of the Harris County Map Records to a 5/8 inch iron rod with "ATKINSON 5897" cap found at the southeast corner of a 6.8361 acre tract of land described in Deed of Trust to Joseph Bruno and recorded in Harris County Clerk's File Number H825572 from which a found 3/4 inch galvanized iron pipe bears S.87°26'22"W. 742.49 feet;

THENCE N.02°46'11"W. 802.69 feet along the east line of said 6.8361 acre tract of land to a 3/4 inch iron rod found in the southeasterly line of a 100 foot wide Beaumont-Sour Lake and Western Railroad recorded in Volume 194, Page 45 of the Harris County Deed Records;

THENCE N.40°03'54"E. 2619.32 feet along the southeasterly line of said Beaumont-Sour Lake and Western Railroad to a 5/8 inch iron rod with "ATKINSON 5897" cap found in the south line of Lot 81 of Busch Subdivision as shown on the plat thereof recorded in Volume 1A, Page 8 of the Harris County Deed Records;

THENCE N.87°38'02"E. 676.00 feet along a south line of said Lot 81,Lot 80 and Lot 79 to a 1 inch iron pipe found for the southeast corner of said Lot 79, Busch Subdivision;

THENCE N.02°01'45"W. 519.93 feet along the east line of said Lot 79, Lot 78 of said Busch Subdivision to a 5/8 inch iron rod with "ATKINSON 5897" cap set for corner in the centerline of said 80 foot wide Harris County Flood Control District Easement;

THENCE S.56°33'02"E. 742.88 feet along the centerline of said 80 foot wide Harris County Flood Control District Easement to the PLACE OF BEGINNING.

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

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

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

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

SECTION 4.  (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8005A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8005A.0306 to read as follows:

Sec. 8005A.0306.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

SECTION 5.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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