By:  Kitzman (Senate Sponsor - Kolkhorst) H.B. No. 5390

(In the Senate - Received from the House May 10, 2023; May 10, 2023, read first time and referred to Committee on Local Government; May 15, 2023, reported favorably by the following vote: Yeas 7, Nays 0; May 15, 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 Waller County Municipal Utility District No. 52; 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 7995A to read as follows:

CHAPTER 7995A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 52

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7995A.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 Waller County Municipal Utility District No. 52.

Sec. 7995A.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7995A.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. 7995A.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7995A.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.

Sec. 7995A.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. 7995A.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. 7995A.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 7995A.0202, directors serve staggered four-year terms.

Sec. 7995A.0202.  TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1)  Frank Bertlilino;

(2)  Roel Badillo;

(3)  Ryan Burns;

(4)  Justin Spears; and

(5)  Campbell Anderson.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 7995A.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 7995A.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 7995A.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. 7995A.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7995A.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. 7995A.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. 7995A.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. 7995A.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. 7995A.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 7995A.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. 7995A.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7995A.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. 7995A.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. 7995A.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. 7995A.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. 7995A.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 Waller County Municipal Utility District No. 52 initially includes all the territory contained in the following area:

Being a tract of land containing 381.279 acres (16,301,720 square feet) located in a portion of the J.P. Grigsby Survey, Abstract Number (No.) 132, the Jacob Taylor Survey Abstract (No.) 268, and the Ambrose Powell Survey Abstract (No.) 239, in Waller County Texas; Said 381.279 acre tract being all of a called 374.2356 acre tract recorded in the name of Maple Reserve, LLC, under Waller County Clerk File (W.C.C.F.) No. 2209021, and also all of a called 7.0393 acre tract in the name of Maple Reserve Square, LLC, under W.C.C.F. No. 2209024, said 381.279 acre tract being more particularly described by metes and bounds as follows, (all bearings are based on the Texas Coordinate System of 1983 (NAD83), South Central Zone, per GPS observations):

BEGINNING at the northeast corner of a called 13.4394 acre tract, recorded in the name of Rebecca Lynn Scansy under W.C.C.F. No. 1207072 and being on the South Right-Of-Way (ROW) of Mayer Road (60' foot public ROW) recorded in Waller County Deed Record (W.C.D.R.) Vol. 161, Pg. 327), being the Northwest corner of said 374.2356 acre tract, and being the Northwest corner of herein described tract;

THENCE, with the line common to said 374.2356 acre tract, said 7.0393 acre tract, and said South ROW of said Mayer Road, and the herein described tract the following two (2) courses;

1.  North 86 degrees 32 minutes 04 seconds East, a distance of 1907.71 feet to an angle point in the herein described tract;

2.  North 86 degrees 22 minutes 23 seconds East, a distance of 1519.88 feet to the northeast corner of said 7.0393 acre tract, being the northeast corner of herein described tract, and also being the intersection with the West ROW of FM 362 (80' foot public ROW) recorded in W.C.D.R. Vol. 34, Pg. 7 and Vol. 116, Pg. 443;

THENCE, with the line common to said 374.2356 acre tract, said 7.0393 acre tract, said west ROW of FM 362, and the herein described tract the following seven (7) courses:

1.  South 28 degrees 26 minutes 15 seconds East, a distance of 274.91 feet to the beginning of a curve to the right;

2.  510.54 feet along the arc of said curve to the right having a radius of 1105.92 feet, a central angle of 26 degrees 27 minutes 01 seconds, and a chord that bears South 15 degrees 12 minutes 45 seconds East, a distance of 506.02 feet to an angle point in the herein described tract;

3.  South 01 degrees 59 minutes 15 seconds East, a distance of 475.20 feet to an angle point in the herein described tract;

4.  South 02 degrees 34 minutes 15 seconds East, a distance of 1707.22 feet to an angle point in the herein described tract;

5.  South 02 degrees 36 minutes 15 seconds East, a distance of 1149.31 feet to an angle point at the beginning of a curve to the left;

6.  156.16 feet along the arc of said curve to the left having a radius of 560.87 feet, a central angle of 15 degrees 57 minutes 11 seconds, and a chord that bears South 10 degrees 34 minutes 51 seconds East, a distance of 155.66 feet to an angle point in the herein described tract;

7.  South 02 degrees 22 minutes 17 seconds East, a distance of 340.27 feet to an angle point in the north R.O.W. of Flukinger Road (50' Public R.O.W.) recorded in W.C.D.R. Vol. 252, Pg. 297 and Vol. 392, Pg. 670 and being the southeast corner of herein described tract;

THENCE, along the line common to said 374.236 acre tract and the North R.O.W. of Flukinger Road, and the herein described tract the following two (2) courses:

1.  South 86 degrees 30 minutes 34 seconds West, a distance of 1771.42 feet to an angle point in the herein described tract;

2.  South 86 degrees 11 minutes 28 seconds West, a distance of 1615.33 feet to an angle point in the easterly boundary line of a called 15.000 acre tract recorded in the name of Shirley L. Russ under the W.C.D.R. Vol 257, Pg. 60, and being the most southerly Southwest corner of the herein described tract;

THENCE, with the line common to said 15.000 acre tract, and the herein described tract the following two (2) courses;

1.  North 05 degrees 29 minutes 48 seconds East, a distance of 254.70 feet to the northeast corner of said 15.000 acre tract, and an angle point in the herein described tract;

2.  South 89 degrees 51 minutes 06 seconds West, a distance of 350.34 feet along the northern boundary line of said 15.000 acre tract to an angle point in the eastern boundary line of a called 16.000 acre tract recorded in the name of Connie C. Hatfield under the W.C.C.F. No. 808499 and the southwest corner of herein described tract;

THENCE, with the line common to said 16.000 acre tract, a called 4.000 acre tract recorded in the name of Connie C. Hatfield, under the W.C.C.F. No. 808499 and the herein described tract, North 01 degrees 47 minutes 18 seconds West, a distance of 1300.37 feet to an angle point in the herein described tract;

THENCE, with the line common to said 16.000 acre tract, the herein described tract, a called 7.8444 acre tract recorded in the name of Patricia Louise Hudy, under the W.C.C.F. No. 1207073, and a called 13.438 acre tract recorded in the name of Ashley Sue Durfee, under the W.C.C.F. No. 1207075, of said 13.438 acre tract North 02 degrees 24 minutes 28 seconds West a distance of 3005.54 feet to the POINT OF BEGINNING, containing 381.279 acres of land.

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 7995A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7995A.0306 to read as follows:

Sec. 7995A.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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