By:  Zaffirini S.B. No. 2576

(In the Senate - Filed March 22, 2023; March 23, 2023, read first time and referred to Committee on Local Government; April 24, 2023, reported favorably by the following vote: Yeas 8, Nays 0; April 24, 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 Open R Fresh Water Supply District of Caldwell County; 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 7994A to read as follows:

CHAPTER 7994A. OPEN R FRESH WATER SUPPLY DISTRICT OF CALDWELL COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7994A.0101.  DEFINITIONS. In this chapter:

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

(2)  "Director" means a board member.

(3)  "District" means the Open R Fresh Water Supply District of Caldwell County.

Sec. 7994A.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7994A.0103.  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. 7994A.0104.  DISTRICT TERRITORY. (a) The district is 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. POWERS AND DUTIES

Sec. 7994A.0201.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7994A.0202.  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. 7994A.0203.  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, and landscaping, in aid of those roads.

Sec. 7994A.0204.  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.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 7994A.0301.  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 7994A.0303.

(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. 7994A.0302.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7994A.0301, 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. 7994A.0303.  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 D. BONDS AND OTHER OBLIGATIONS

Sec. 7994A.0401.  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. 7994A.0402.  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. 7994A.0403.  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 Open R Fresh Water Supply District of Caldwell County includes all the territory contained in the following area:

BEING a 10.00 acre tract of land situated in the William Morrison Survey, Abstract Number 187, Caldwell County, Texas, being all of tract of land described in the deed to Michael M. Reynolds, recorded in Volume 130, Page 887, Official Public Records of Caldwell County, Texas, said 10.00 acres being more particularly described as follows;

COMMENCING at a found 3/8-inch iron rod with cap stamped "RPLS 454r for the northeast corner of a tract of land described in the deed to Jacob K. Hohertz recorded in Instrument Number 2015-004255, Official Public Records of Caldwell County, Texas;

THENCE North 04 degrees 07 minutes 28 seconds West, a distance of 303.33 feet to a set 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC" for the POINT OF BEGINNING;

THENCE North 10 degrees 55 minutes 01 second West, a distance of 660.00 feet to a found 1/2-inch iron rod with cap stamped "UDG #2433";

THENCE North 79 degrees 04 minutes 59 seconds East, a distance of 660.00 feet to a found 1/2-inch iron rod with cap stamped "UDG #2433";

THENCE South 10 degrees 55 minutes 01 second East, a distance of 660.00 feet to set 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC";

THENCE South 79 degrees 04 minutes 59 seconds West, a distance of 660.00 feet to the POINT OF BEGINNING. CONTAINING a computed area of 10.00 acres or 435,600 square feet of land, more or less.

METES AND BOUNDS (OVERALL)

BEING a 1,278.22 acre tract of land situated in the William Morrison Survey, Abstract Number 187, the Ira Brisbee Survey, Abstract No. 53 and the William Morrison Survey, Abstract Number 200, Caldwell County, Texas, being all of tracts of land described as Tracts 1, 2, 3, 4, 5, 7, 9, 10 and 11 in the deed to Open R. Family Partnership, Ltd., recorded in Volume 536, Page 157, Official Public Records of Caldwell County, Texas, and all of a tract of land described in the deed to Michael M. Reynolds, recorded in Volume 130, Page 887, Official Public Records of Caldwell County, Texas, said 1,278.22 acres being more particularly described as follows;

BEGINNING at a set 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC" at the intersection of the west right-of-way line of F.M. 2001 (80 foot wide) and the north right-of-way line of Bob White Road (CR 232)

(undetermined width right-of-way);

THENCE South 80 degrees 13 minutes 21 seconds West, along the north right-of-way line of Bob White Road, a distance of 3,378.55 feet to a found 1/2-inch iron rod with cap (illegible) for the common south corner of said Open R. Family Partnership, Ltd. tract and a tract of land described in the deed to Jacob K. Hohertz recorded in Instrument Number 2015-004255, Official Public Records of Caldwell County, Texas;

THENCE North 09 degrees 31 minutes 05 seconds West, departing the north right-of-way line of Bob White Road, along the east line of said to Jacob K. Hohertz tract, a distance of 975.62 feet to a found 3/8- inch iron rod with cap stamped "RPLS 454?) for the northeast corner of said to Jacob K. Hohertz tract;

THENCE South 78 degrees 45 minutes 59 seconds West, along the north line of said to Jacob K. Hohertz tract, at a distance of 519.41 feet passing a found 1/2-inch iron rod for the common north line of said to Jacob K. Hohertz tract and a tract of land described in the deed to Bob White Ranch Partners, LP, recorded in Instrument Number 2020-005485, Official Public Records of Caldwell County, Texas, continuing along the north line of said Bob White Ranch Partners, LP tract, in all a total distance of 5,150.26 feet to a found 1/2-inch iron with cap stamped "UDG #2433" in the east right-of-way line of F.M. 2720 (80 foot wide) being the northwest corner of said Bob White Ranch Partners, LP tract;

THENCE North 41 degrees 18 minutes 01 second West, along the east right-of-way line of F.M. 2720, a distance of 2,311.60 feet to a found 1/2-inch iron rod with cap stamped "UDG #2433" for the southwest corner of a tract of land described in the deed to Ranch Road Bollinger, LLC, recorded in Instrument Number 2021-009404, Official Public Records of Caldwell County, Texas;

THENCE North 59 degrees 03 minutes 35 seconds East, departing the east right-of-way line of F.M. 2720 and along the south line of said Ranch Road Bollinger, LLC tract, a distance of 2,317.52 feet to a found stone mound for the southeast corner of said Ranch Road Bollinger, LLC tract;

THENCE North 10 degrees 38 minutes 30 seconds West, along the east line of said Ranch Road Bollinger, LLC tract, a distance of 1,714.09 feet to a found 1/2-inch iron with cap stamped "UDG #2433" for the common east corner of said Ranch Road Bollinger, LLC tract and a tract of land described in the deed to Marshall G. Varner recorded in Instrument Number 2021-004273, Official Public Records of Caldwell County, Texas;

THENCE North 10 degrees 19 minutes 42 seconds West, along the east line of said Marshall G. Varner tract, a distance of 1,082.15 feet to a found mag nail in concrete around a fence post for the southwest corner of a tract of land described in the deed to Uhland High Ground Group, LLC recorded in Instrument Number 2021-007504, Official Public Records of Caldwell County, Texas;

THENCE North 79 degrees 20 minutes 07 seconds East, departing the east line of said Marshall G. Varner tract and with a south line of said Uhland High Ground Group, LLC tract, a distance of 3,748.76 feet to a found 3-inch metal fence post, for the southernmost southeast corner of said Uhland High Ground Group, LLC tract;

THENCE North 10 degrees 28 minutes 44 seconds West, along an east line of said Uhland High Ground Group, LLC tract, a distance of 2,039.59 feet to a point from which a found 1/2-iron rod bears South 78 degrees 38 minutes 59 seconds East, a distance of 0.39 feet, for an interior ell corner of said Uhland High Ground Group, LLC tract;

THENCE North 74 degrees 44 minutes 07 seconds East, along a south line of said Uhland High Ground Group, LLC tract, a distance of 3,318.07 feet to a set 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC" in the west right-of-way line of F.M. 2001 for the southeast corner of said Uhland High Ground Group, LLC tract;

THENCE South 10 degrees 19 minutes 38 seconds East, along the west right-of-way line of F.M. 2001, a distance of 803.75 feet to a set 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC" for the beginning of a circular curve to the left having a radius of 2,937.38 feet and whose chord bears South 20 degrees 39 minutes 23 seconds East, a chord distance of 1,033.38 feet;

THENCE Southeasterly, along said circular curve to the left and along the west right-of-way line of F.M. 2001, through a central angle of 20 degrees 15 minutes 44 seconds, a distance of 1,038.78 feet to a found broken concrete TXDOT monument at the end of said curve;

THENCE South 30 degrees 34 minutes 49 seconds East, along the west right-of-way line of F.M. 2001, a distance of 344.36 feet to a found 1/2-iron rod with cap stamped "UDG #2433" for the beginning of a circular curve to the right having a radius of 2,796.29 feet and whose chord bears South 20 degrees 25 minutes 48 seconds East, a chord distance of 999.16 feet;

THENCE Southeasterly, along said circular curve to the right and along the west right-of-way line of F.M. 2001, through a central angle of 20 degrees 35 minutes 00 seconds, a distance of 1,004.55 feet to a found 1/2-iron rod with cap stamped "UDG #2433" at the end of said curve;

THENCE South 10 degrees 14 minutes 42 seconds East, along the west right-of-way line of F.M. 2001, a distance of 150.11 feet to a found 5/8-iron rod (bent) for the northeast corner of a tract of land described in the deed to Dora Cunningham recorded in Instrument Number 140027, Official Public Records of Caldwell County, Texas;

THENCE South 80 degrees 22 minutes 10 seconds West, departing the west right-of-way line of F.M. 2001 and along the north line of said Dora Cunningham tract, a distance of 674.37 feet to a point from which a found 5/8-iron rod bears South 08 degrees 38 minutes 30 seconds West, a distance of 0.35 feet for the northwest corner of said Dora Cunningham tract;

THENCE South 10 degrees 11 minutes 05 seconds East, along the west line of said Dora Cunningham tract, at a deed distance of 216.09 feet passing the common west corner of said Dora Cunningham tract and a tract of land described in the deed to Allison Joyce and Jimmy S. Moore Jr., recorded in Instrument Number 2019-003313, Official Public Records of Caldwell County, Texas, continuing along the west line of said Allison Joyce and Jimmy S. Moore Jr. tract, in all a total distance of 926.23 feet to a found 1/2-iron rod with cap stamped "UDG #2433" for the southwest corner of said Allison Joyce and Jimmy S. Moore Jr. tract;

THENCE South 72 degrees 31 minutes 41 seconds East, along the south line of said Allison Joyce and Jimmy S. Moore Jr. tract, a distance of 740.92 feet to a found 5/8-inch iron rod in the west right-of-way line of F.M. 2001 for the southeast corner of said Allison Joyce and Jimmy S. Moore Jr. tract;

THENCE South 10 degrees 14 minutes 26 seconds East, along the west right-of-way line of F.M. 2001, a distance of 1,103.31 feet to a found 1/2-iron rod with cap stamped "UDG #2433";

THENCE North 79 degrees 45 minutes 34 seconds East, along the west right-of-way line of F.M. 2001, a distance of 20.00 feet to a set 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC";

THENCE South 10 degrees 14 minutes 26 seconds East, along the west right-of-way line of F.M. 2001, a distance of 984.80 feet to a point from which a found broken concrete TXDOT monument bears North 32 degrees 05 minutes 26 seconds East, a distance of 1.36 feet;

THENCE South 10 degrees 49 minutes 27 seconds East, along the west right-of-way line of F.M. 2001, a distance of 2,223.17 feet to a point from which a found broken concrete TXDOT monument bears North 32 degrees 05 minutes 26 seconds East, a distance of 1.36 feet;

THENCE South 12 degrees 38 minutes 33 seconds East, along the west right-of-way line of F.M. 2001, a distance of 15.80 feet to the POINT OF BEGINNING.

CONTAINING a computed area of 1,278.22 acres or 55,679,090 square feet of land, more or less.

SECTION 3.  (a) All governmental and proprietary actions and proceedings of the Open R Fresh Water Supply District of Caldwell County taken before the effective date of this Act are validated, ratified, and confirmed in all respects as of the dates on which they occurred.

(b)  This section does not apply to any matter that on the effective date of this Act:

(1)  is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(2)  has been held invalid by a final court judgment.

SECTION 4.  (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 5.  (a)  If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter B, Chapter 7994A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7994A.0205 to read as follows:

Sec. 7994A.0205.  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 6.  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.

\* \* \* \* \*