By:  Zaffirini S.B. No. 2579

(In the Senate - Filed March 23, 2023; April 17, 2023, read first time and referred to Committee on Local Government; April 25, 2023, reported favorably by the following vote: Yeas 8, Nays 0; April 25, 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 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.

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 7976A to read as follows:

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

SUBCHAPTER A. GENERAL PROVISIONS

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

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

Sec. 7976A.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. 7976A.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7976A.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. 7976A.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. 7976A.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. 7976A.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

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

Sec. 7976A.0202.  TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, 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 temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 7976A.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 7976A.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 7976A.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. 7976A.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7976A.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. 7976A.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. 7976A.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. 7976A.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.

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

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

(c)  An order dividing the district shall:

(1)  name any new district;

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

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

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

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

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

(1)  has never issued any bonds; and

(2)  is not imposing ad valorem taxes.

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

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

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

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

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

(k)  A new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

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

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

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7976A.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 7976A.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. 7976A.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7976A.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. 7976A.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. 7976A.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. 7976A.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. 7976A.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 Guadalupe County Municipal Utility District No. 8 initially includes all the territory contained in the following area:

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

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

Thence, with the common line between said 159.45 acre tract and said 39.86 acre tract, South 41 degrees 33 minutes 50 seconds East, a distance of 2,224.03 feet to the most easterly corner of said 159.45 acre tract, being the most northerly corner of aforesaid 91.04 acre tract, the southerly corner of said 39.86 acre tract and the most westerly corner of a called 51.89 acre tract recorded in the names of Juan and Jose Castillo in Volume 4185, Page 934, O.P.R.G.C.;

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

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

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

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

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

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

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

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

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

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

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

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

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

Thence, with the common line between said 159.45 acre tract and said 67.01 acre tract, the following two (2) courses and distances;

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

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

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

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

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

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

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

Thence, with the northerly line of said 159.45 acre tract and the southerly R.O.W. line of said IH 10, North 72 degrees 09 minutes 51 seconds East, a distance of 1,548.01 feet to the Point of Beginning and containing 248.5 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 7976A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7976A.0307 to read as follows:

Sec. 7976A.0307.  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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