

By: Kitzman

H.B. No. 5314

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Waller County Municipal Utility District No. 56; 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 7879A to read as follows:

CHAPTER 7879A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 56

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7879A.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. 56.

Sec. 7879A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7879A.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.

1 Sec. 7879A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7879A.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.

7 Sec. 7879A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

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

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

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

16 Sec. 7879A.0106. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

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

23 (1) organization, existence, or validity;

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

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 7879A.0201. GOVERNING BODY; TERMS. (a) The district
4 is governed by a board of five elected directors.

5 (b) Except as provided by Section 7879A.0202, directors
6 serve staggered four-year terms.

7 Sec. 7879A.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Ida Afshar;

10 (2) Olivia Lovoi;

11 (3) Ellie Little;

12 (4) Shelby McNeal; and

13 (5) Trevor Pinchback.

14 (b) Temporary directors serve until the earlier of:

15 (1) the date permanent directors are elected under
16 Section 7879A.0103; or

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

19 (c) If permanent directors have not been elected under
20 Section 7879A.0103 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 7879A.0103; or

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

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

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 7879A.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 7879A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 7879A.0303. AUTHORITY FOR ROAD PROJECTS. Under
18 Section 52, Article III, Texas Constitution, the district may
19 design, acquire, construct, finance, issue bonds for, improve,
20 operate, maintain, and convey to this state, a county, or a
21 municipality for operation and maintenance macadamized, graveled,
22 or paved roads, or improvements, including storm drainage, in aid
23 of those roads.

24 Sec. 7879A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 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. 7879A.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. 7879A.0306. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1) has no outstanding bond debt; and

(2) is not imposing ad valorem taxes.

(b) 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.

(c) 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.

(d) The board, on its own motion or on receipt of a petition

1 signed by the owner or owners of a majority of the assessed value of
2 the real property in the district, may adopt an order dividing the
3 district.

4 (e) The board may adopt an order dividing the district
5 before or after the date the board holds an election under Section
6 7879A.0103 to confirm the district's creation.

7 (f) An order dividing the district shall:

8 (1) name each new district;

9 (2) include the metes and bounds description of the
10 territory of each new district;

11 (3) appoint temporary directors for each new district;

12 and

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

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

19 (h) A new district created by the division of the district
20 shall hold a confirmation and directors' election as required by
21 Section 7879A.0103.

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

25 (j) A new district created by the division of the district
26 must hold an election as required by this chapter to obtain voter
27 approval before the district may impose a maintenance tax or issue

bonds payable wholly or partly from ad valorem taxes.

(k) Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 7879A.0104 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. 7879A.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 7879A.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. 7879A.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7879A.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

1 exceed the rate approved at the election.

2 Sec. 7879A.0403. CONTRACT TAXES. (a) In accordance with
3 Section 49.108, Water Code, the district may impose a tax other than
4 an operation and maintenance tax and use the revenue derived from
5 the tax to make payments under a contract after the provisions of
6 the contract have been approved by a majority of the district voters
7 voting at an election held for that purpose.

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

11 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

12 Sec. 7879A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
13 OBLIGATIONS. The district may issue bonds or other obligations
14 payable wholly or partly from ad valorem taxes, impact fees,
15 revenue, contract payments, grants, or other district money, or any
16 combination of those sources, to pay for any authorized district
17 purpose.

18 Sec. 7879A.0502. TAXES FOR BONDS. At the time the district
19 issues bonds payable wholly or partly from ad valorem taxes, the
20 board shall provide for the annual imposition of a continuing
21 direct ad valorem tax, without limit as to rate or amount, while all
22 or part of the bonds are outstanding as required and in the manner
23 provided by Sections 54.601 and 54.602, Water Code.

24 Sec. 7879A.0503. BONDS FOR ROAD PROJECTS. At the time of
25 issuance, the total principal amount of bonds or other obligations
26 issued or incurred to finance road projects and payable from ad
27 valorem taxes may not exceed one-fourth of the assessed value of the

1 real property in the district.

2 SECTION 2. The Waller County Municipal Utility District
3 No. 56 initially includes all the territory contained in the
4 following area:

5 A 212.779 acres (9,268,661 square feet more or less) tract of
6 land, being all of a called 212.77803 acre tract of land conveyed to
7 MA Opportunity Fund I, L.P. as described in a deed recorded in
8 Clerk's File No. 2106255 in the Official Public Records of Waller
9 County, Texas, situated in the H. & T. C. R.R. Co. Survey, Section
10 67, Abstract Number 151, in Waller County, Texas. Said 212.779 acre
11 tract being more fully described as follows, with bearings based on
12 the Texas Coordinate System of 1983 established for the South
13 Central Zone from the North American Datum of 1983 (NA2011) epoch
14 2010.00:

15 BEGINNING: At a 1 1/4 inch iron pipe found for the northwest
16 corner of said 212.7803 acre tract, in the west line of a called
17 264.963 acre tract of land conveyed to Gavranovic Family Limited
18 Partnership as described in a deed recorded in Volume 755, Page 243
19 in the Deed Records of Waller County, Texas and in the south
20 right-of-way line of F.M. 529 aka Freeman Ranch Road as described in
21 Volume 154, Page 289 in the Deed Records of Waller County, Texas;

22 THENCE: N 87°52'59" E, along and with the north line of said
23 212.7803 acre tract, the south right-of-way line of said F.M. 529, a
24 distance of 2381.15 feet to a 5/8 inch iron rod with cap stamped
25 "Pape-Dawson" set for the northeast corner of said 212.7803 acre
26 tract, the northwest corner of a called 641.4 acre tract of land
27 conveyed to G.J. Bollinger LTD. as described in a deed recorded in

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1 Clerk's File No. 990436 in the Official Public records of Waller
2 County, Texas and in the south line of said FM 529;

3 THENCE: S 01°59'52" E, along and with the common line of said
4 212.7803 acre tract and said 641.4 acre tract, a distance of 3893.84
5 feet to a 1/2 inch iron pipe found for the southeast corner of said
6 212.7803 acre tract, the southwest corner of said 641.4 acre tract,
7 and the northeast corner of a called 160.695 acre tract of land
8 conveyed to Gavranoivc Family Limited Partnership, as described in
9 a deed recorded in Clerk's File No. 403790 in the Official Public
10 Records of Waller County, Texas, from which a found 5/8 inch iron
11 rod with illegible cap bears S 01°59'25" E, a distance of 1444.52
12 feet;

13 THENCE: S 87°46'47" W, along and with the south line of said
14 212.7803 acre tract, the north line of said 160.695 acre tract, a
15 distance of 2376.93 feet to a 5/8 inch iron rod with cap stamped
16 "Pape-Dawson" set for the southwest corner of said 212.7803 acre
17 tract, in the north line of said 160.695 acre tract , and the
18 southeast corner of the aforementioned 264.963 acre tract

19 THENCE: N 02°03'36" W, along and with the common line between
20 said 212.7803 acre tract and said 264.963 acre tract, a distance of
21 3898.12 feet to the POINT OF BEGINNING, and containing 212.779
22 acres in Waller County, Texas. Said tract being described in
23 accordance with a survey made on the ground, and a survey map
24 prepared under job number 49176-21 by Pape-Dawson Engineers, Inc.

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 7879A, Special District Local Laws Code, as added by Section 1 of
19 this Act, is amended by adding Section 7879A.0307 to read as
20 follows:

21 Sec. 7879A.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.