

By: Kuempel

H.B. No. 5327

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of the Guadalupe County Municipal Utility  
3 District No. 8; granting a limited power of eminent domain;  
4 providing authority to issue bonds; providing authority to impose  
5 assessments, fees, and taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
8 Code, is amended by adding Chapter 7976A to read as follows:

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

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7976A.0101. DEFINITIONS. In this chapter:

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

13 (2) "Commission" means the Texas Commission on  
14 Environmental Quality.

15 (3) "Director" means a board member.

16 (4) "District" means the Guadalupe County Municipal  
17 Utility District No. 8.

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

21 Sec. 7976A.0103. CONFIRMATION AND DIRECTOR ELECTION  
22 REQUIRED. The temporary directors shall hold an election to  
23 confirm the creation of the district and to elect five permanent  
24 directors as provided by Section 49.102, Water Code.

1       Sec. 7976A.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 7976A.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, as required  
7 by applicable law.

8       Sec. 7976A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

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

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

17       Sec. 7976A.0106. INITIAL DISTRICT TERRITORY. (a) The  
18 district is initially composed of the territory described by  
19 Section 2 of the Act enacting this chapter.

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

24               (1) organization, existence, or validity;

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

1           (3) right to impose a tax; or

2           (4) legality or operation.

3                   SUBCHAPTER B. BOARD OF DIRECTORS

4           Sec. 7976A.0201. GOVERNING BODY; TERMS. (a) The district  
5 is governed by a board of five elected directors.

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

8           Sec. 7976A.0202. TEMPORARY DIRECTORS. (a) On or after the  
9 effective date of the Act enacting this chapter, the owner or owners  
10 of a majority of the assessed value of the real property in the  
11 district may submit a petition to the commission requesting that  
12 the commission appoint as temporary directors the five persons  
13 named in the petition. The commission shall appoint as temporary  
14 directors the five persons named in the petition.

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

16                   (1) the date permanent directors are elected under  
17 Section 7976A.0103; or

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

20           (c) If permanent directors have not been elected under  
21 Section 7976A.0103 and the terms of the temporary directors have  
22 expired, successor temporary directors shall be appointed or  
23 reappointed as provided by Subsection (d) to serve terms that  
24 expire on the earlier of:

25                   (1) the date permanent directors are elected under  
26 Section 7976A.0103; or

27                   (2) the fourth anniversary of the date of the

1 appointment or reappointment.

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

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 7976A.0301. GENERAL POWERS AND DUTIES. The district  
11 has the powers and duties necessary to accomplish the purposes for  
12 which the district is created.

13 Sec. 7976A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND  
14 DUTIES. The district has the powers and duties provided by the  
15 general law of this state, including Chapters 49 and 54, Water Code,  
16 applicable to municipal utility districts created under Section 59,  
17 Article XVI, Texas Constitution.

18 Sec. 7976A.0303. AUTHORITY FOR ROAD PROJECTS. Under  
19 Section 52, Article III, Texas Constitution, the district may  
20 design, acquire, construct, finance, issue bonds for, improve,  
21 operate, maintain, and convey to this state, a county, or a  
22 municipality for operation and maintenance macadamized, graveled,  
23 or paved roads, or improvements, including storm drainage, in aid  
24 of those roads.

25 Sec. 7976A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
26 road project must meet all applicable construction standards,  
27 zoning and subdivision requirements, and regulations of each

1 municipality in whose corporate limits or extraterritorial  
2 jurisdiction the road project is located.

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

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

11 Sec. 7976A.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
12 ORDINANCE OR RESOLUTION. The district shall comply with all  
13 applicable requirements of any ordinance or resolution that is  
14 adopted under Section 54.016 or 54.0165, Water Code, and that  
15 consents to the creation of the district or to the inclusion of land  
16 in the district.

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

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

23 (c) An order dividing the district shall:

24 (1) name any new district;

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

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

1 and

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

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

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

8 (1) has never issued any bonds; and

9 (2) is not imposing ad valorem taxes.

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

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

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

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

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

26 (k) A new district created by the division of the district  
27 must hold an election as required by this chapter to obtain voter

1 approval before the district may impose a maintenance tax or issue  
2 bonds payable wholly or partly from ad valorem taxes.

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

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

9 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

10 Sec. 7976A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
11 The district may issue, without an election, bonds and other  
12 obligations secured by:

- 13 (1) revenue other than ad valorem taxes; or  
14 (2) contract payments described by Section  
15 7976A.0403.

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

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

24 Sec. 7976A.0402. OPERATION AND MAINTENANCE TAX. (a) If  
25 authorized at an election held under Section 7976A.0401, the  
26 district may impose an operation and maintenance tax on taxable  
27 property in the district in accordance with Section 49.107, Water

1 Code.

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

4 Sec. 7976A.0403. CONTRACT TAXES. (a) In accordance with  
5 Section 49.108, Water Code, the district may impose a tax other than  
6 an operation and maintenance tax and use the revenue derived from  
7 the tax to make payments under a contract after the provisions of  
8 the contract have been approved by a majority of the district voters  
9 voting at an election held for that purpose.

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

13 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

14 Sec. 7976A.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
15 OBLIGATIONS. The district may issue bonds or other obligations  
16 payable wholly or partly from ad valorem taxes, impact fees,  
17 revenue, contract payments, grants, or other district money, or any  
18 combination of those sources, to pay for any authorized district  
19 purpose.

20 Sec. 7976A.0502. TAXES FOR BONDS. At the time the district  
21 issues bonds payable wholly or partly from ad valorem taxes, the  
22 board shall provide for the annual imposition of a continuing  
23 direct ad valorem tax, without limit as to rate or amount, while all  
24 or part of the bonds are outstanding as required and in the manner  
25 provided by Sections 54.601 and 54.602, Water Code.

26 Sec. 7976A.0503. BONDS FOR ROAD PROJECTS. At the time of  
27 issuance, the total principal amount of bonds or other obligations



1 issued or incurred to finance road projects and payable from ad  
2 valorem taxes may not exceed one-fourth of the assessed value of the  
3 real property in the district.

4 SECTION 2. The Guadalupe County Municipal Utility District  
5 No. 8 initially includes all the territory contained in the  
6 following area:

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

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

24 Thence, with the common line between said 159.45 acre tract  
25 and said 39.86 acre tract, South 41 degrees 33 minutes 50 seconds  
26 East, a distance of 2,224.03 feet to the most easterly corner of  
27 said 159.45 acre tract, being the most northerly corner of

1 aforesaid 91.04 acre tract, the southerly corner of said 39.86 acre  
2 tract and the most westerly corner of a called 51.89 acre tract  
3 recorded in the names of Juan and Jose Castillo in Volume 4185, Page  
4 934, O.P.R.G.C.;

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

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

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

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

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

17 Thence, with the easterly line of said 91.04 acre tract and  
18 the westerly R.O.W. line of said Dart Field Road, South 03 degrees  
19 26 minutes 57 seconds West, a distance of 1,141.98 feet to the  
20 southeasterly corner of said 91.04 acre tract, being the most  
21 easterly corner of a called 62.46 acre tract of land recorded in the  
22 name of Mary Mergele (no deed information found);

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

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

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

3           3. South 48 degrees 26 minutes 08 seconds West, a distance  
4 of 487.65 feet to an interior corner of said 91.04 acre tract, being  
5 the southeasterly corner of a called 60.00 acre tract of land  
6 recorded in the name of Richard Mergele in Document Number  
7 202199016163, O.P.R.G.C.;

8           Thence, with the common line between said 91.04 acre tract  
9 and said 60.00 acre tract, North 40 degrees 54 minutes 12 seconds  
10 West, a distance of 1,549.99 feet the northwesterly corner of said  
11 91.04 acre tract, being the most northerly corner of said 60.00 acre  
12 tract, also being on the southerly line of aforesaid 159.45 acre  
13 tract;

14           Thence, with the common line between said 159.45 acre tract  
15 and said 60.00 acre tract, South 47 degrees 58 minutes 18 seconds  
16 West, a distance of 1,692.34 feet to the most southerly corner of  
17 said 159.45 acre tract, being the westerly corner of said 60.00 acre  
18 tract, also being on the easterly line of a called 141.59 acre tract  
19 of land recorded in the name of Abner Ussery in Volume 133, Page  
20 381, O.P.R.G.C.;

21           Thence, with the common line between said 159.45 acre tract  
22 and said 141.59 acre tract, North 39 degrees 48 minutes 06 seconds  
23 West, a distance of 1,303.20 feet to the most westerly corner of  
24 said 159.45 acre tract, being the southwesterly corner of a called  
25 67.01 acre tract of land recorded in the name of Abner Ussery (no  
26 deed information found);

27           Thence, with the common line between said 159.45 acre tract

1 and said 67.01 acre tract, the following two (2) courses and  
2 distances;

3 North 48 degrees 35 minutes 44 seconds East, a distance of  
4 1,783.49 feet;

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

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

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

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

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

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

21 Thence, with the northerly line of said 159.45 acre tract and  
22 the southerly R.O.W. line of said IH 10, North 72 degrees 09 minutes  
23 51 seconds East, a distance of 1,548.01 feet to the Point of  
24 Beginning and containing 248.5 acres of land.

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 7976A, Special District Local Laws Code, as added by Section 1 of  
19 this Act, is amended by adding Section 7976A.0307 to read as  
20 follows:

21 Sec. 7976A.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.