

1-1 By: Kitzman (Senate Sponsor - Kolkhorst) H.B. No. 5348
1-2 (In the Senate - Received from the House May 3, 2023;
1-3 May 4, 2023, read first time and referred to Committee on Local
1-4 Government; May 10, 2023, reported favorably by the following
1-5 vote: Yeas 8, Nays 1; May 10, 2023, sent to printer.)

1-6 COMMITTEE VOTE

1-7	Yea	Nay	Absent	PNV
1-8	X			
1-9		X		
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the creation of the Waller County Municipal Utility
1-20 District No. 49; granting a limited power of eminent domain;
1-21 providing authority to issue bonds; providing authority to impose
1-22 assessments, fees, and taxes.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-24 SECTION 1. Subtitle F, Title 6, Special District Local Laws
1-25 Code, is amended by adding Chapter 7992A to read as follows:

1-26 CHAPTER 7992A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 49
1-27 SUBCHAPTER A. GENERAL PROVISIONS
1-28 Sec. 7992A.0101. DEFINITIONS. In this chapter:
1-29 (1) "Board" means the district's board of directors.
1-30 (2) "Commission" means the Texas Commission on
1-31 Environmental Quality.
1-32 (3) "Director" means a board member.
1-33 (4) "District" means the Waller County Municipal
1-34 Utility District No. 49.

1-35 Sec. 7992A.0102. NATURE OF DISTRICT. The district is a
1-36 municipal utility district created under Section 59, Article XVI,
1-37 Texas Constitution.

1-38 Sec. 7992A.0103. CONFIRMATION AND DIRECTOR ELECTION
1-39 REQUIRED. The temporary directors shall hold an election to
1-40 confirm the creation of the district and to elect five permanent
1-41 directors as provided by Section 49.102, Water Code.

1-42 Sec. 7992A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
1-43 temporary directors may not hold an election under Section
1-44 7992A.0103 until each municipality in whose corporate limits or
1-45 extraterritorial jurisdiction the district is located has
1-46 consented by ordinance or resolution to the creation of the
1-47 district and to the inclusion of land in the district as required by
1-48 general law.

1-49 Sec. 7992A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.
1-50 (a) The district is created to serve a public purpose and benefit.

1-51 (b) The district is created to accomplish the purposes of:
1-52 (1) a municipal utility district as provided by
1-53 general law and Section 59, Article XVI, Texas Constitution; and
1-54 (2) Section 52, Article III, Texas Constitution, that
1-55 relate to the construction, acquisition, improvement, operation,
1-56 or maintenance of macadamized, graveled, or paved roads, or
1-57 improvements, including storm drainage, in aid of those roads.

1-58 Sec. 7992A.0106. INITIAL DISTRICT TERRITORY. (a) The
1-59 district is initially composed of the territory described by
1-60 Section 2 of the Act enacting this chapter.

1-61 (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. 7992A.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 7992A.0202, directors serve staggered four-year terms.

Sec. 7992A.0202. TEMPORARY DIRECTORS. (a) The temporary board consists of:

- (1) Heather Sides;
- (2) Rosie Schneider;
- (3) Deborah Johnson;
- (4) Samantha Harn; and
- (5) Anthony Miranda.

(b) Temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 7992A.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 7992A.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 7992A.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. 7992A.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7992A.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. 7992A.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. 7992A.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. 7992A.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. 7992A.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 7992A.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. 7992A.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7992A.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. 7992A.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. 7992A.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. 7992A.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. 7992A.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. 49 initially includes all the territory contained in the following area:

TRACT I:

BEING a 258.3 acre (11,250,068 square foot) tract of land situated in the H. & T.C. R.R. Co. Survey, Section 79, Abstract No. 157 of Waller County, Texas and being all of a called 258.270 acre tract of land described as Tract I in an instrument to Freeland (Houston) ASLI X, LLC recorded under Waller County Clerk's File Number (W.C.C.F. No.) 2215430, said 258.3 acre tract of land described by metes and bounds as follows, with all bearings based on the Texas Coordinate System of 1983 (NAD83), South Central Zone

4-1 4204 and referenced to monuments found along the perimeter of said
 4-2 Tract I as cited herein:

4-3 BEGINNING at the Southeast corner of the herein described
 4-4 tract and said Tract I, same being a Northerly right-of-way corner
 4-5 of Morton Road (with varies, as occupied), lying on the West line of
 4-6 a called 532.516 acre tract of land as described in an instrument to
 4-7 Morton and 2855-NW, LLC recorded under Vol. 1410, Pg. 72 of the
 4-8 Waller County Deed Records (W.C.D.R.), from which a found 5/8-inch
 4-9 iron rod bears N 79°43' E, a distance of 0.32 feet;

4-10 THENCE, S 87°59'32" W, along and with the South line of said
 4-11 Tract I and the North right-of-way line of said Morton Road, at a
 4-12 distance of 650.05 pass a found 5/8-inch iron rod, continuing along
 4-13 and with the South line of said Tract I and the North right-of-way
 4-14 line of said Morton Road, a total distance of 2,757.78 feet to the
 4-15 Southwest corner of the herein described tract and said Tract I,
 4-16 same being the Southeast corner of a called 5.982 acre tract of land
 4-17 described as Tract III in an instrument to City of Houston, Texas
 4-18 recorded under Vol. 397, Pg. 65 of the W.C.D.R., from which a found
 4-19 bent 5/8-inch iron rod bears S 60°23' W, a distance of 0.37 feet;

4-20 THENCE, N 16°19'33" W, along and with a Westerly line of said
 4-21 Tract I and the East line of said Tract III, a distance of 2,203.11
 4-22 feet to the most Westerly Northwest corner of the herein described
 4-23 tract and said Tract I, lying on the South line of a called 706.172
 4-24 acre tract of land described as Tract I in an instrument to City of
 4-25 Houston, Texas recorded under Vol. 397, Pg. 51 and Vol. 397, Pg. 65
 4-26 of the W.C.D.R., from which a found 5/8-inch iron rod found bears N
 4-27 02°32' W, a distance of 0.31 feet;

4-28 THENCE, N 73°40'27" E, along and with a Northerly line of said
 4-29 Tract I and the South line of said 706.172 acre tract, a distance of
 4-30 2,305.00 feet to a 5/8-inch iron rod found for an interior corner of
 4-31 the herein described tract and said Tract I, same being the
 4-32 Southeast corner of said 706.172 acre tract;

4-33 THENCE, N 16°19'33" W, along and with a Westerly line of said
 4-34 Tract I and the East line of said 706.172 acre tract, at a distance
 4-35 of 1,643.63 feet pass a found 5/8-inch iron rod, continuing along
 4-36 and with a Westerly line of said Tract I and the East line of said
 4-37 706.172 acre tract, a total distance of 2,619.16 feet to a 5/8-inch
 4-38 iron rod found for the most Northerly Northwest corner of the herein
 4-39 described tract and said Tract I, same being the Southwest corner of
 4-40 a called 556.084 acre tract as described in an instrument to
 4-41 Freeland (Houston) ASLI X, LLC recorded under W.C.C.F. No. 2115429;

4-42 THENCE, N 87°59'33" E, along and with the North line of said
 4-43 Tract I and the South line of said 556.084 acre tract, a distance of
 4-44 1,717.00 feet to a 1/2-inch iron rod with aluminum cap found for the
 4-45 Northeast corner of the herein described tract and said Tract I and
 4-46 the Southeast corner of said 556.084 acre tract, same being the
 4-47 Southwest corner of a called 318.743 acre tract of land described as
 4-48 Tract 7 in an instrument to Hilcorp Energy I, LP recorded under
 4-49 W.C.C.F. No. 1909037 and the Northwest corner of a called 79.794
 4-50 acre tract of land described as Tract 8 in a instrument to Hilcorp
 4-51 Energy I, LP recorded under W.C.C.F. No. 1909468, from which a
 4-52 found 1/2-inch iron rod bears N 37°22' E, a distance of 5.54 feet;

4-53 THENCE, S 02°00'26" E, along and with the East line of said
 4-54 Tract I and the West line of said Tract 8, at a distance of 1,320.86
 4-55 feet pass the Southwest corner of said Tract 8 and the Northwest
 4-56 corner of said 532.516 acre tract, continuing along and with the
 4-57 East line of said Tract I and the West line of said 532.516 acre
 4-58 tract, a total distance of 5,242.51 feet to the POINT OF BEGINNING
 4-59 and containing 258.3 acres (11,250,068 square feet) of land.

4-60 TRACT II:

4-61 BEING a 206.6 acre (8,999,215 square foot) tract of land
 4-62 situated in the H. & T.C. R.R. Co. Survey, Section 82, Abstract
 4-63 No. 290, the H. & T.C. R.R. Co. Survey, Section 79, Abstract
 4-64 No. 157, and the H. & T.C. R.R. Co. Survey, Section 70, Abstract
 4-65 No. 328 of Waller County, Texas and being all of a called 206.593
 4-66 acre tract of land described as Tract II in an instrument to
 4-67 Freeland (Houston) ASLI X, LLC recorded under Waller County Clerk's
 4-68 File Number (W.C.C.F. No.) 2115430, said 206.6 acre tract of land
 4-69 described by metes and bounds as follows, with all bearings based on

5-1 the Texas Coordinate System of 1983 (NAD83), South Central Zone
 5-2 4204 and referenced to monuments found along the perimeter of said
 5-3 206.593 acre tract as cited herein:

5-4 BEGINNING at a 5/8-inch iron rod found for the Southwest
 5-5 corner of the herein described tract and said 206.593 acre tract,
 5-6 same being a Northerly right-of-way corner of Morton Road (width
 5-7 varies, as occupied), lying on the East line of a called 317.3080
 5-8 acre tract of land as described in an instrument to Lyndon Bing
 5-9 recorded under Vol. 361, Pg. 50 of the Waller County Deed Records
 5-10 (W.C.D.R.);

5-11 THENCE, N 02°02'55" W, along and with the West line of said
 5-12 206.593 acre tract and the East line of said 317.3080 acre tract, at
 5-13 a distance of 1,677.23 feet pass the Northeast corner of said
 5-14 317.3080 acre tract and the Southeast corner of a called 272.550
 5-15 acre tract of land as described in an instrument to Morton Newman
 5-16 Partners, LLC recorded under Vol. 1052, Pg. 5 of the W.C.D.R.,
 5-17 continuing along and with the West line of said 206.593 acre tract
 5-18 and the East line of said 272.550 acre tract, at a distance of
 5-19 2,686.82 feet pass a 1-inch iron pipe found for the Northeast corner
 5-20 of said 272.550 acre tract and the Southeast corner of a called
 5-21 152.694 acre tract of land as described in an instrument to
 5-22 Poarch/Swinbank LLC recorded under W.C.C.F. No. 2102032,
 5-23 continuing along and with the West line of said 206.593 acre tract
 5-24 and the East line of said 152.694 acre tract, a total distance of
 5-25 5,242.52 feet to a Westerly corner of said 206.593 acre tract and
 5-26 the herein described tract, same being the Northeast corner of said
 5-27 152.694 acre tract, lying on the South line of a called 563.770 acre
 5-28 tract of land described as Exhibit A in an instrument to LSEK
 5-29 Waller, LP recorded under Vol. 1338, Pg. 106 of the W.C.D.R., from
 5-30 which a found 5/8-inch iron rod bears N 77°26' E, 0.33 feet;

5-31 THENCE, N 87°59'32" E, along and with the South line of said
 5-32 563.770 acre tract and a Northerly line of said 206.593 acre tract,
 5-33 a distance of 17.47 feet to an interior corner of the herein
 5-34 described tract and said 206.593 acre tract, same being the
 5-35 Southeast corner of said 563.770 acre tract, from which a found
 5-36 5/8-inch iron rod with cap stamped "JONES & CARTER" bears S 60°20' E,
 5-37 0.45 feet;

5-38 THENCE, N 02°00'50" W, along and with the East line of said
 5-39 563.770 acre tract and a Westerly line of said 206.593 acre tract, a
 5-40 distance of 263.19 feet to the Northwest corner of the herein
 5-41 described tract and said 206.593 acre tract, same being an Easterly
 5-42 corner of said 563.770 acre tract, the Southeast corner of a called
 5-43 719.600 acre tract of land described as Tract II in an instrument to
 5-44 City of Houston, Texas recorded under Vol. 397, Pg. 51 and Vol. 397,
 5-45 Pg. 65 of the W.C.D.R., and the Southwest corner of a called 706.172
 5-46 acre tract of land described as Tract I in an instrument to City of
 5-47 Houston, Texas recorded under Vol. 397, Pg. 51 and Vol. 397, Pg. 65
 5-48 of the W.C.D.R., from which a found 5/8-inch iron rod bears S 25°19'
 5-49 E, a distance of 0.33 feet;

5-50 THENCE, N 87°59'32" E, along and with the North line of said
 5-51 206.593 acre tract and a Southerly line of said 706.172 acre tract,
 5-52 a distance of 862.29 feet to the Northeast corner of the herein
 5-53 described tract and said 206.593 acre tract, same being an interior
 5-54 corner of said 706.172 acre tract, from which a found
 5-55 5/8-inch iron rod with cap stamped "JONES & CARTER" bears S 62°31' W,
 5-56 a distance of 0.67 feet;

5-57 THENCE, S 16°19'33" E, along and with an Easterly line of said
 5-58 206.593 acre tract and the West line of said 706.172 acre tract, a
 5-59 distance of 3,545.46 feet to an interior corner of the herein
 5-60 described tract and said 206.593 acre tract, same being the
 5-61 Southwest corner of said 706.172 acre tract, from which a found
 5-62 5/8-inch iron rod bears S 49°22' W, a distance of 0.58 feet;

5-63 THENCE, N 73°40'27" E, along and with a Northerly line of said
 5-64 206.593 acre tract and the South line of said 706.172 acre tract, a
 5-65 distance of 140.00 feet to a 5/8-inch iron rod found for an Easterly
 5-66 corner of said 206.593 acre tract and the herein described tract,
 5-67 same being the Northwest corner of a called 5.982 acre tract of land
 5-68 described as Tract III in an instrument to City of Houston, Texas
 5-69 recorded under Vol. 397, Pg. 65 of the W.C.D.R.;

THENCE, S 16°19'33" E, along and with an Easterly line of said 206.593 acre tract and the West line of said 5.982 acre tract, a distance of 2,172.48 to a 5/8-inch iron rod with cap stamped "JONES & CARTER" found for the Southeast corner of the herein described tract and said 206.593 acre tract, same being the Southwest corner of said 5.982 acre tract, lying on the North right-of-way line of said Morton Road;

THENCE, S 87°59'32" W, along and with the South line of said 206.593 acre tract and the North right-of-way line of said Morton Road, a distance of 2,425.72 feet to the POINT OF BEGINNING and containing 206.6 acres (8,999,215 square feet) 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 7992A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7992A.0306 to read as follows:

Sec. 7992A.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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