

By: Kitzman

H.B. No. 5349

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Austin County Municipal Utility District No. 4; 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 7991A to read as follows:

CHAPTER 7991A. AUSTIN COUNTY MUNICIPAL UTILITY DISTRICT NO. 4

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7991A.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 Austin County Municipal Utility District No. 4.

Sec. 7991A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7991A.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. 7991A.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 7991A.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 by  
7 applicable law.

8       Sec. 7991A.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. 7991A.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. 7991A.0201. GOVERNING BODY; TERMS. (a) The district  
5 is governed by a board of five elected directors.

6           (b) Except as provided by Section 7991A.0202, directors  
7 serve staggered four-year terms.

8           Sec. 7991A.0202. TEMPORARY DIRECTORS. (a) The temporary  
9 board consists of:

10           (1) Micah Burson;

11           (2) Cullen Weishuhn;

12           (3) Nick Tirey;

13           (4) Chris Beckendorff; and

14           (5) Mills Duncan.

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

16           (1) the date permanent directors are elected under  
17 Section 7991A.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 7991A.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 7991A.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. 7991A.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. 7991A.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. 7991A.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. 7991A.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

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. 7991A.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. 7991A.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 7991A.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.

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

5       Sec. 7991A.0402. OPERATION AND MAINTENANCE TAX. (a) If  
6 authorized at an election held under Section 7991A.0401, the  
7 district may impose an operation and maintenance tax on taxable  
8 property in the district in accordance with Section 49.107, Water  
9 Code.

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

12       Sec. 7991A.0403. CONTRACT TAXES. (a) In accordance with  
13 Section 49.108, Water Code, the district may impose a tax other than  
14 an operation and maintenance tax and use the revenue derived from  
15 the tax to make payments under a contract after the provisions of  
16 the contract have been approved by a majority of the district voters  
17 voting at an election held for that purpose.

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

21               SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

22       Sec. 7991A.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
23 OBLIGATIONS. The district may issue bonds or other obligations  
24 payable wholly or partly from ad valorem taxes, impact fees,  
25 revenue, contract payments, grants, or other district money, or any  
26 combination of those sources, to pay for any authorized district  
27 purpose.

1       Sec. 7991A.0502. TAXES FOR BONDS. At the time the district  
2 issues bonds payable wholly or partly from ad valorem taxes, the  
3 board shall provide for the annual imposition of a continuing  
4 direct ad valorem tax, without limit as to rate or amount, while all  
5 or part of the bonds are outstanding as required and in the manner  
6 provided by Sections 54.601 and 54.602, Water Code.

7       Sec. 7991A.0503. BONDS FOR ROAD PROJECTS. At the time of  
8 issuance, the total principal amount of bonds or other obligations  
9 issued or incurred to finance road projects and payable from ad  
10 valorem taxes may not exceed one-fourth of the assessed value of the  
11 real property in the district.

12       SECTION 2. The Austin County Municipal Utility District  
13 No. 4 initially includes all the territory contained in the  
14 following area:

15       BEING all that certain tract or parcel of land containing  
16 113.676 acres of land, more or less, in the J. K. Lee Survey,  
17 Abstract 353, Austin County, Texas, same being out of the residue of  
18 that certain Tract 1 called 160 acre parcel East Quarter of School  
19 Section 144, Patent No. 474, Volume 12 as described by instrument  
20 recorded in Volume 288, Page 575 of the Deed Records of Austin  
21 County, Texas, said 113.676 acre tract being more particularly  
22 described by metes and bounds, as follows, to wit:

23       Commencing for reference at a 1/2 inch iron rod found for  
24 corner, same being the most easterly corner of the residue of that  
25 certain called 6.162 acre parcel as described by instrument  
26 recorded in Clerk's File No. 981607 of the Official Records of  
27 Austin County, Texas, same being the most northerly corner of that

H.B. No. 5349

1 certain called 5.000 acre parcel as described by instrument  
2 recorded in Clerk's File No. 191600 of the Official Records of  
3 Austin County, Texas, same being in the southwesterly occupied  
4 right-of-way line of Sens Road (right-of-way varies), same being a  
5 northeasterly exterior corner of that certain Parcel "B" called  
6 100.000 acre parcel this day herein described, from which a 1/2 inch  
7 iron rod found for corner bears South 45 degrees 00 minutes 00  
8 seconds East, a distance of 2,154.29 feet (called South 45 degrees  
9 00 minutes 00 seconds East, 2,154.31 feet) (Basis of Bearings),  
10 same being a northwesterly interior corner of that certain called  
11 12.631 acre parcel as described by instrument recorded in Clerk's  
12 File No. 007898 of the Official Records of Austin County, Texas,  
13 same being the most easterly corner of that certain Parcel "A"  
14 called 113.676 acre parcel this day herein described, and same  
15 being the most easterly corner of the residue of that certain Tract  
16 1 called 160 acre parcel as described by instrument recorded in  
17 Volume 288, Page 577 of the Deed Records of Austin County, Texas;

18       THENCE, departing said occupied southwesterly right-of-way  
19 line of Sens Road and with said common line, South 31 degrees 02  
20 minutes 31 seconds West (called South 31 degrees 02 minutes 31  
21 seconds West) pass at a distance of 235.66 feet (called 235.61 feet)  
22 a 1/2 inch iron rod found for corner, same being the most southerly  
23 corner of the residue of said called 6.162 acre parcel, same being  
24 an easterly exterior corner of the residue of said Tract 1, in all a  
25 distance of 418.23 feet (called 418.23 feet) to a 1/2 inch iron rod  
26 found for corner, same being the most westerly corner of said  
27 called 5.000 acre parcel, same being an easterly interior corner of



H.B. No. 5349

1 that certain Parcel "B" this day herein described, same being an  
2 easterly interior corner of the residue of said Tract 1, and same  
3 being an easterly interior corner of the tract herein described;

4       THENCE, continuing with said common line, South 45 degrees 09  
5 minutes 08 seconds East, a distance of 126.36 feet (called South 45  
6 degrees 09 minutes 08 seconds East) to POINT OF BEGINNING and a  
7 northerly exterior corner of the tract herein described, same being  
8 the most easterly southeast exterior corner of said Parcel "B" this  
9 day herein described, same being in the southwesterly line of said  
10 called 5.000 acre parcel;

11       THENCE, continuing with said common line, South 45 degrees 09  
12 minutes 08 seconds East, a distance of 408.08 feet (called South 45  
13 degrees 09 minutes 08 seconds East) to a 1/2 inch iron rod found for  
14 corner, same being the most southerly corner of said called 5.000  
15 acre parcel, same being a northerly interior corner of the residue  
16 of said Tract 1, and same being a northerly interior corner of the  
17 tract herein described;

18       THENCE, continuing with said common line, North 31 degrees 46  
19 minutes 52 seconds East, a distance of 415.47 feet (called North 31  
20 degrees 46 minutes 52 seconds East, 415.47 feet) to a 1/2 inch iron  
21 rod found for corner, same being the most easterly corner of said  
22 called 5.000 acre parcel, same being a northerly exterior corner of  
23 said Tract 1, same being in the southwesterly occupied  
24 right-of-way of Sens Road, and same being a northerly exterior  
25 corner of the tract herein described;

26       THENCE, with said southwesterly occupied right-of-way line  
27 of said Sens Road and said common line, South 45 degrees 00 minutes

H.B. No. 5349

1 00 seconds East (called South 45 degrees 00 minutes 00 seconds East)  
2 pass at a distance of 1,579.97 feet a 1/2 inch iron rod found for  
3 corner, same being the most northerly northwest corner of said  
4 called 12.631 acre parcel, same being the apparent intersection of  
5 the occupied southwesterly right-of-way line of Sens Road with the  
6 northeasterly extension of Sens Road, departing said southwesterly  
7 right-of-way line and said southeasterly right-of-way line of Sens  
8 Road intersection, in all a distance of 1,613.98 feet to a 1/2 inch  
9 iron rod found for corner, same being the most easterly southeast  
10 corner of the occupied residue of said Tract 1 called 160 acre  
11 parcel, same being a northwesterly interior corner of said called  
12 12.631 acre parcel, and same being the most easterly corner of the  
13 tract herein described;

14       THENCE, with said occupied common line, South 45 degrees 13  
15 minutes 38 seconds West, a distance of 1,385.44 feet (called South  
16 45 degrees 00 minutes 00 seconds West) to a 1/2 inch iron rod found  
17 for corner, same being a southeasterly exterior corner of the  
18 residue of said Tract 1, same being a northwesterly interior corner  
19 of said called 12.631 acre parcel, and same being a southeasterly  
20 exterior corner of the tract herein described;

21       THENCE, continuing with said common line, South 48 degrees 25  
22 minutes 53 seconds West, a distance of 59.19 feet (called South 45  
23 degrees 00 minutes 00 seconds West) to a 5/8 inch iron rod set for  
24 corner at an old occupied fence intersection point, same being a  
25 northwesterly exterior corner of said called 12.631 acre parcel,  
26 same being in the southeasterly occupied line of the residue of said  
27 Tract 1, and same being a southeasterly interior corner of the

1 tract herein described;

2       THENCE, continuing with said common line, South 44 degrees 40  
3 minutes 55 seconds West, a distance of 364.58 feet (called South 45  
4 degrees 00 minutes 00 seconds West) to a 1/2 inch iron rod found for  
5 corner at an old occupied fence intersection, same being a  
6 southeasterly exterior corner of the residue of said Tract 1, same  
7 being the most westerly corner of said called 12.631 acre parcel,  
8 and same being a northerly exterior corner of that certain Parcel 1  
9 called 919.5371 acre parcel as described by instrument recorded in  
10 Clerk's File No. 144449 of the Official Records of Austin County,  
11 Texas, and same being a southeasterly exterior corner of the tract  
12 herein described;

13       THENCE, continuing with said common occupied line, South 45  
14 degrees 26 minutes 52 seconds West, a distance of 843.83 feet  
15 (called South 45 degrees 00 minutes 00 seconds West) to a 1/2 inch  
16 iron rod found for corner at an old fence intersection, same being  
17 the most southerly corner of the residue of Tract 1, same being in a  
18 northwesterly line of said Parcel 1 called 919.5371 acre parcel,  
19 same being the most easterly corner of that certain called 943.659  
20 acre parcel as described by instrument recorded in Clerk's File  
21 No. 973704 of the Official Records of Austin County, Texas, and  
22 same being the most southerly corner of the tract herein described;

23       THENCE, continuing with said occupied common line, North 44  
24 degrees 38 minutes 14 seconds West, a distance of 412.60 feet  
25 (called North 45 degrees 00 minutes 00 seconds West) to a 5/8 inch  
26 iron rod set for corner at an old occupied fence intersection point,  
27 same being in the southwesterly line of the residue of said Tract 1,

H.B. No. 5349

1 same being in the northeasterly line of said called 943.659 acre  
2 parcel, and same being in the southwesterly line of the tract herein  
3 described;

4       THENCE, continuing with said occupied common line, North 44  
5 degrees 55 minutes 54 seconds West, a distance of 809.93 feet  
6 (called North 45 degrees 00 minutes 00 seconds West) to a 3/8 inch  
7 iron rod found for corner, same being in the southwesterly line of  
8 said Tract 1, same being in the northeasterly line of said called  
9 943.659 acre parcel, and same being in the southwesterly occupied  
10 line of the tract herein described;

11       THENCE, continuing with said occupied common line, North 44  
12 degrees 52 minutes 24 seconds West, a distance of 415.58 feet  
13 (called North 45 degrees 00 minutes 00 seconds West) to a 5/8 inch  
14 iron rod set for corner at an old fence intersection, same being in  
15 the southwesterly line of the residue of said Tract 1, same being in  
16 the northeasterly line of said called 943.659 acre parcel, and same  
17 being in the southwesterly line of the tract herein described;

18       THENCE, continuing with said occupied common line, North 44  
19 degrees 26 minutes 41 seconds West, a distance of 282.25 feet  
20 (called North 45 degrees 00 minutes 00 seconds West) to a 5/8 inch  
21 iron rod set for corner on the old occupied line, same being in the  
22 southwesterly line of the residue of said Tract 1, same being in the  
23 northeasterly line of said called 943.659 acre parcel, same being  
24 the most southerly corner of said Parcel "B" called 100.00 acre  
25 parcel this day herein described, and same being the most westerly  
26 corner of the tract herein described;

27       THENCE, departing said common line, and with the southeast

1 line of said Parcel "B" called 100.000 acre parcel this day herein  
2 described, North 45 degrees 10 minutes 34 seconds East, a distance  
3 of 2,240.13 feet to the POINT OF BEGINNING of the tract herein  
4 described and containing 113.676 acres of land, more or less.

5 SECTION 3. (a) The legal notice of the intention to  
6 introduce this Act, setting forth the general substance of this  
7 Act, has been published as provided by law, and the notice and a  
8 copy of this Act have been furnished to all persons, agencies,  
9 officials, or entities to which they are required to be furnished  
10 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
11 Government Code.

12 (b) The governor, one of the required recipients, has  
13 submitted the notice and Act to the Texas Commission on  
14 Environmental Quality.

15 (c) The Texas Commission on Environmental Quality has filed  
16 its recommendations relating to this Act with the governor, the  
17 lieutenant governor, and the speaker of the house of  
18 representatives within the required time.

19 (d) All requirements of the constitution and laws of this  
20 state and the rules and procedures of the legislature with respect  
21 to the notice, introduction, and passage of this Act are fulfilled  
22 and accomplished.

23 SECTION 4. (a) If this Act does not receive a two-thirds  
24 vote of all the members elected to each house, Subchapter C, Chapter  
25 7991A, Special District Local Laws Code, as added by Section 1 of  
26 this Act, is amended by adding Section 7991A.0306 to read as  
27 follows:

1        Sec. 7991A.0306. NO EMINENT DOMAIN POWER. The district may  
2 not exercise the power of eminent domain.

3        (b) This section is not intended to be an expression of a  
4 legislative interpretation of the requirements of Section 17(c),  
5 Article I, Texas Constitution.

6        SECTION 5. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2023.