

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.