

1-1 By: Kitzman (Senate Sponsor - Kolkhorst) H.B. No. 5349  
 1-2 (In the Senate - Received from the House May 10, 2023;  
 1-3 May 10, 2023, read first time and referred to Committee on Local  
 1-4 Government; May 15, 2023, reported favorably by the following  
 1-5 vote: Yeas 7, Nays 0; May 15, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Bettencourt	X			
1-8 Springer	X			
1-9 Eckhardt			X	
1-10 Gutierrez			X	
1-11 Hall	X			
1-12 Nichols	X			
1-13 Parker	X			
1-14 Paxton	X			
1-15 West	X			

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

1-19 relating to the creation of the Austin County Municipal Utility  
 1-20 District No. 4; 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 7991A to read as follows:

1-26 CHAPTER 7991A. AUSTIN COUNTY MUNICIPAL UTILITY DISTRICT NO. 4

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7991A.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 Austin County Municipal  
 1-34 Utility District No. 4.

1-35 Sec. 7991A.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. 7991A.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. 7991A.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
 1-43 temporary directors may not hold an election under Section  
 1-44 7991A.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 applicable law.

1-49 Sec. 7991A.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. 7991A.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

2-1 the Act enacting this chapter form a closure. A mistake made in the  
 2-2 field notes or in copying the field notes in the legislative process  
 2-3 does not affect the district's:

- 2-4 (1) organization, existence, or validity;
- 2-5 (2) right to issue any type of bond for the purposes  
 2-6 for which the district is created or to pay the principal of and  
 2-7 interest on a bond;
- 2-8 (3) right to impose a tax; or
- 2-9 (4) legality or operation.

2-10 SUBCHAPTER B. BOARD OF DIRECTORS

2-11 Sec. 7991A.0201. GOVERNING BODY; TERMS. (a) The district  
 2-12 is governed by a board of five elected directors.

2-13 (b) Except as provided by Section 7991A.0202, directors  
 2-14 serve staggered four-year terms.

2-15 Sec. 7991A.0202. TEMPORARY DIRECTORS. (a) The temporary  
 2-16 board consists of:

- 2-17 (1) Micah Burson;
- 2-18 (2) Cullen Weishuhn;
- 2-19 (3) Nick Tirey;
- 2-20 (4) Chris Beckendorff; and
- 2-21 (5) Mills Duncan.

2-22 (b) Temporary directors serve until the earlier of:

- 2-23 (1) the date permanent directors are elected under  
 2-24 Section 7991A.0103; or
- 2-25 (2) the fourth anniversary of the effective date of  
 2-26 the Act enacting this chapter.

2-27 (c) If permanent directors have not been elected under  
 2-28 Section 7991A.0103 and the terms of the temporary directors have  
 2-29 expired, successor temporary directors shall be appointed or  
 2-30 reappointed as provided by Subsection (d) to serve terms that  
 2-31 expire on the earlier of:

- 2-32 (1) the date permanent directors are elected under  
 2-33 Section 7991A.0103; or
- 2-34 (2) the fourth anniversary of the date of the  
 2-35 appointment or reappointment.

2-36 (d) If Subsection (c) applies, the owner or owners of a  
 2-37 majority of the assessed value of the real property in the district  
 2-38 may submit a petition to the commission requesting that the  
 2-39 commission appoint as successor temporary directors the five  
 2-40 persons named in the petition. The commission shall appoint as  
 2-41 successor temporary directors the five persons named in the  
 2-42 petition.

2-43 SUBCHAPTER C. POWERS AND DUTIES

2-44 Sec. 7991A.0301. GENERAL POWERS AND DUTIES. The district  
 2-45 has the powers and duties necessary to accomplish the purposes for  
 2-46 which the district is created.

2-47 Sec. 7991A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND  
 2-48 DUTIES. The district has the powers and duties provided by the  
 2-49 general law of this state, including Chapters 49 and 54, Water Code,  
 2-50 applicable to municipal utility districts created under Section 59,  
 2-51 Article XVI, Texas Constitution.

2-52 Sec. 7991A.0303. AUTHORITY FOR ROAD PROJECTS. Under  
 2-53 Section 52, Article III, Texas Constitution, the district may  
 2-54 design, acquire, construct, finance, issue bonds for, improve,  
 2-55 operate, maintain, and convey to this state, a county, or a  
 2-56 municipality for operation and maintenance macadamized, graveled,  
 2-57 or paved roads, or improvements, including storm drainage, in aid  
 2-58 of those roads.

2-59 Sec. 7991A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
 2-60 road project must meet all applicable construction standards,  
 2-61 zoning and subdivision requirements, and regulations of each  
 2-62 municipality in whose corporate limits or extraterritorial  
 2-63 jurisdiction the road project is located.

2-64 (b) If a road project is not located in the corporate limits  
 2-65 or extraterritorial jurisdiction of a municipality, the road  
 2-66 project must meet all applicable construction standards,  
 2-67 subdivision requirements, and regulations of each county in which  
 2-68 the road project is located.

2-69 (c) If the state will maintain and operate the road, the

3-1 Texas Transportation Commission must approve the plans and  
3-2 specifications of the road project.

3-3 Sec. 7991A.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
3-4 ORDINANCE OR RESOLUTION. The district shall comply with all  
3-5 applicable requirements of any ordinance or resolution that is  
3-6 adopted under Section 54.016 or 54.0165, Water Code, and that  
3-7 consents to the creation of the district or to the inclusion of land  
3-8 in the district.

3-9 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-10 Sec. 7991A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
3-11 The district may issue, without an election, bonds and other  
3-12 obligations secured by:

3-13 (1) revenue other than ad valorem taxes; or  
3-14 (2) contract payments described by Section  
3-15 7991A.0403.

3-16 (b) The district must hold an election in the manner  
3-17 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
3-18 before the district may impose an ad valorem tax or issue bonds  
3-19 payable from ad valorem taxes.

3-20 (c) The district may not issue bonds payable from ad valorem  
3-21 taxes to finance a road project unless the issuance is approved by a  
3-22 vote of a two-thirds majority of the district voters voting at an  
3-23 election held for that purpose.

3-24 Sec. 7991A.0402. OPERATION AND MAINTENANCE TAX. (a) If  
3-25 authorized at an election held under Section 7991A.0401, the  
3-26 district may impose an operation and maintenance tax on taxable  
3-27 property in the district in accordance with Section 49.107, Water  
3-28 Code.

3-29 (b) The board shall determine the tax rate. The rate may not  
3-30 exceed the rate approved at the election.

3-31 Sec. 7991A.0403. CONTRACT TAXES. (a) In accordance with  
3-32 Section 49.108, Water Code, the district may impose a tax other than  
3-33 an operation and maintenance tax and use the revenue derived from  
3-34 the tax to make payments under a contract after the provisions of  
3-35 the contract have been approved by a majority of the district voters  
3-36 voting at an election held for that purpose.

3-37 (b) A contract approved by the district voters may contain a  
3-38 provision stating that the contract may be modified or amended by  
3-39 the board without further voter approval.

3-40 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-41 Sec. 7991A.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
3-42 OBLIGATIONS. The district may issue bonds or other obligations  
3-43 payable wholly or partly from ad valorem taxes, impact fees,  
3-44 revenue, contract payments, grants, or other district money, or any  
3-45 combination of those sources, to pay for any authorized district  
3-46 purpose.

3-47 Sec. 7991A.0502. TAXES FOR BONDS. At the time the district  
3-48 issues bonds payable wholly or partly from ad valorem taxes, the  
3-49 board shall provide for the annual imposition of a continuing  
3-50 direct ad valorem tax, without limit as to rate or amount, while all  
3-51 or part of the bonds are outstanding as required and in the manner  
3-52 provided by Sections 54.601 and 54.602, Water Code.

3-53 Sec. 7991A.0503. BONDS FOR ROAD PROJECTS. At the time of  
3-54 issuance, the total principal amount of bonds or other obligations  
3-55 issued or incurred to finance road projects and payable from ad  
3-56 valorem taxes may not exceed one-fourth of the assessed value of the  
3-57 real property in the district.

3-58 SECTION 2. The Austin County Municipal Utility District  
3-59 No. 4 initially includes all the territory contained in the  
3-60 following area:

3-61 BEING all that certain tract or parcel of land containing  
3-62 113.676 acres of land, more or less, in the J. K. Lee Survey,  
3-63 Abstract 353, Austin County, Texas, same being out of the residue of  
3-64 that certain Tract 1 called 160 acre parcel East Quarter of School  
3-65 Section 144, Patent No. 474, Volume 12 as described by instrument  
3-66 recorded in Volume 288, Page 575 of the Deed Records of Austin  
3-67 County, Texas, said 113.676 acre tract being more particularly  
3-68 described by metes and bounds, as follows, to wit:

3-69 Commencing for reference at a 1/2 inch iron rod found for

4-1 corner, same being the most easterly corner of the residue of that  
4-2 certain called 6.162 acre parcel as described by instrument  
4-3 recorded in Clerk's File No. 981607 of the Official Records of  
4-4 Austin County, Texas, same being the most northerly corner of that  
4-5 certain called 5.000 acre parcel as described by instrument  
4-6 recorded in Clerk's File No. 191600 of the Official Records of  
4-7 Austin County, Texas, same being in the southwesterly occupied  
4-8 right-of-way line of Sens Road (right-of-way varies), same being a  
4-9 northeasterly exterior corner of that certain Parcel "B" called  
4-10 100.000 acre parcel this day herein described, from which a 1/2 inch  
4-11 iron rod found for corner bears South 45 degrees 00 minutes 00  
4-12 seconds East, a distance of 2,154.29 feet (called South 45 degrees  
4-13 00 minutes 00 seconds East, 2,154.31 feet) (Basis of Bearings),  
4-14 same being a northwesterly interior corner of that certain called  
4-15 12.631 acre parcel as described by instrument recorded in Clerk's  
4-16 File No. 007898 of the Official Records of Austin County, Texas,  
4-17 same being the most easterly corner of that certain Parcel "A"  
4-18 called 113.676 acre parcel this day herein described, and same  
4-19 being the most easterly corner of the residue of that certain Tract  
4-20 1 called 160 acre parcel as described by instrument recorded in  
4-21 Volume 288, Page 577 of the Deed Records of Austin County, Texas;

4-22 THENCE, departing said occupied southwesterly right-of-way  
4-23 line of Sens Road and with said common line, South 31 degrees 02  
4-24 minutes 31 seconds West (called South 31 degrees 02 minutes 31  
4-25 seconds West) pass at a distance of 235.66 feet (called 235.61 feet)  
4-26 a 1/2 inch iron rod found for corner, same being the most southerly  
4-27 corner of the residue of said called 6.162 acre parcel, same being  
4-28 an easterly exterior corner of the residue of said Tract 1, in all a  
4-29 distance of 418.23 feet (called 418.23 feet) to a 1/2 inch iron rod  
4-30 found for corner, same being the most westerly corner of said  
4-31 called 5.000 acre parcel, same being an easterly interior corner of  
4-32 that certain Parcel "B" this day herein described, same being an  
4-33 easterly interior corner of the residue of said Tract 1, and same  
4-34 being an easterly interior corner of the tract herein described;

4-35 THENCE, continuing with said common line, South 45 degrees 09  
4-36 minutes 08 seconds East, a distance of 126.36 feet (called South 45  
4-37 degrees 09 minutes 08 seconds East) to POINT OF BEGINNING and a  
4-38 northerly exterior corner of the tract herein described, same being  
4-39 the most easterly southeast exterior corner of said Parcel "B" this  
4-40 day herein described, same being in the southwesterly line of said  
4-41 called 5.000 acre parcel;

4-42 THENCE, continuing with said common line, South 45 degrees 09  
4-43 minutes 08 seconds East, a distance of 408.08 feet (called South 45  
4-44 degrees 09 minutes 08 seconds East) to a 1/2 inch iron rod found for  
4-45 corner, same being the most southerly corner of said called 5.000  
4-46 acre parcel, same being a northerly interior corner of the residue  
4-47 of said Tract 1, and same being a northerly interior corner of the  
4-48 tract herein described;

4-49 THENCE, continuing with said common line, North 31 degrees 46  
4-50 minutes 52 seconds East, a distance of 415.47 feet (called North 31  
4-51 degrees 46 minutes 52 seconds East, 415.47 feet) to a 1/2 inch iron  
4-52 rod found for corner, same being the most easterly corner of said  
4-53 called 5.000 acre parcel, same being a northerly exterior corner of  
4-54 said Tract 1, same being in the southwesterly occupied  
4-55 right-of-way of Sens Road, and same being a northerly exterior  
4-56 corner of the tract herein described;

4-57 THENCE, with said southwesterly occupied right-of-way line  
4-58 of said Sens Road and said common line, South 45 degrees 00 minutes  
4-59 00 seconds East (called South 45 degrees 00 minutes 00 seconds East)  
4-60 pass at a distance of 1,579.97 feet a 1/2 inch iron rod found for  
4-61 corner, same being the most northerly northwest corner of said  
4-62 called 12.631 acre parcel, same being the apparent intersection of  
4-63 the occupied southwesterly right-of-way line of Sens Road with the  
4-64 northeasterly extension of Sens Road, departing said southwesterly  
4-65 right-of-way line and said southeasterly right-of-way line of Sens  
4-66 Road intersection, in all a distance of 1,613.98 feet to a 1/2 inch  
4-67 iron rod found for corner, same being the most easterly southeast  
4-68 corner of the occupied residue of said Tract 1 called 160 acre  
4-69 parcel, same being a northwesterly interior corner of said called

5-1 12.631 acre parcel, and same being the most easterly corner of the  
5-2 tract herein described;

5-3       THENCE, with said occupied common line, South 45 degrees 13  
5-4 minutes 38 seconds West, a distance of 1,385.44 feet (called South  
5-5 45 degrees 00 minutes 00 seconds West) to a 1/2 inch iron rod found  
5-6 for corner, same being a southeasterly exterior corner of the  
5-7 residue of said Tract 1, same being a northwesterly interior corner  
5-8 of said called 12.631 acre parcel, and same being a southeasterly  
5-9 exterior corner of the tract herein described;

5-10       THENCE, continuing with said common line, South 48 degrees 25  
5-11 minutes 53 seconds West, a distance of 59.19 feet (called South 45  
5-12 degrees 00 minutes 00 seconds West) to a 5/8 inch iron rod set for  
5-13 corner at an old occupied fence intersection point, same being a  
5-14 northwesterly exterior corner of said called 12.631 acre parcel,  
5-15 same being in the southeasterly occupied line of the residue of said  
5-16 Tract 1, and same being a southeasterly interior corner of the  
5-17 tract herein described;

5-18       THENCE, continuing with said common line, South 44 degrees 40  
5-19 minutes 55 seconds West, a distance of 364.58 feet (called South 45  
5-20 degrees 00 minutes 00 seconds West) to a 1/2 inch iron rod found for  
5-21 corner at an old occupied fence intersection, same being a  
5-22 southeasterly exterior corner of the residue of said Tract 1, same  
5-23 being the most westerly corner of said called 12.631 acre parcel,  
5-24 and same being a northerly exterior corner of that certain Parcel 1  
5-25 called 919.5371 acre parcel as described by instrument recorded in  
5-26 Clerk's File No. 144449 of the Official Records of Austin County,  
5-27 Texas, and same being a southeasterly exterior corner of the tract  
5-28 herein described;

5-29       THENCE, continuing with said common occupied line, South 45  
5-30 degrees 26 minutes 52 seconds West, a distance of 843.83 feet  
5-31 (called South 45 degrees 00 minutes 00 seconds West) to a 1/2 inch  
5-32 iron rod found for corner at an old fence intersection, same being  
5-33 the most southerly corner of the residue of Tract 1, same being in a  
5-34 northwesterly line of said Parcel 1 called 919.5371 acre parcel,  
5-35 same being the most easterly corner of that certain called 943.659  
5-36 acre parcel as described by instrument recorded in Clerk's File  
5-37 No. 973704 of the Official Records of Austin County, Texas, and  
5-38 same being the most southerly corner of the tract herein described;

5-39       THENCE, continuing with said occupied common line, North 44  
5-40 degrees 38 minutes 14 seconds West, a distance of 412.60 feet  
5-41 (called North 45 degrees 00 minutes 00 seconds West) to a 5/8 inch  
5-42 iron rod set for corner at an old occupied fence intersection point,  
5-43 same being in the southwesterly line of the residue of said Tract 1,  
5-44 same being in the northeasterly line of said called 943.659 acre  
5-45 parcel, and same being in the southwesterly line of the tract herein  
5-46 described;

5-47       THENCE, continuing with said occupied common line, North 44  
5-48 degrees 55 minutes 54 seconds West, a distance of 809.93 feet  
5-49 (called North 45 degrees 00 minutes 00 seconds West) to a 3/8 inch  
5-50 iron rod found for corner, same being in the southwesterly line of  
5-51 said Tract 1, same being in the northeasterly line of said called  
5-52 943.659 acre parcel, and same being in the southwesterly occupied  
5-53 line of the tract herein described;

5-54       THENCE, continuing with said occupied common line, North 44  
5-55 degrees 52 minutes 24 seconds West, a distance of 415.58 feet  
5-56 (called North 45 degrees 00 minutes 00 seconds West) to a 5/8 inch  
5-57 iron rod set for corner at an old fence intersection, same being in  
5-58 the southwesterly line of the residue of said Tract 1, same being in  
5-59 the northeasterly line of said called 943.659 acre parcel, and same  
5-60 being in the southwesterly line of the tract herein described;

5-61       THENCE, continuing with said occupied common line, North 44  
5-62 degrees 26 minutes 41 seconds West, a distance of 282.25 feet  
5-63 (called North 45 degrees 00 minutes 00 seconds West) to a 5/8 inch  
5-64 iron rod set for corner on the old occupied line, same being in the  
5-65 southwesterly line of the residue of said Tract 1, same being in the  
5-66 northeasterly line of said called 943.659 acre parcel, same being  
5-67 the most southerly corner of said Parcel "B" called 100.00 acre  
5-68 parcel this day herein described, and same being the most westerly  
5-69 corner of the tract herein described;

6-1           THENCE, departing said common line, and with the southeast  
6-2 line of said Parcel "B" called 100.000 acre parcel this day herein  
6-3 described, North 45 degrees 10 minutes 34 seconds East, a distance  
6-4 of 2,240.13 feet to the POINT OF BEGINNING of the tract herein  
6-5 described and containing 113.676 acres of land, more or less.

6-6           SECTION 3. (a) The legal notice of the intention to  
6-7 introduce this Act, setting forth the general substance of this  
6-8 Act, has been published as provided by law, and the notice and a  
6-9 copy of this Act have been furnished to all persons, agencies,  
6-10 officials, or entities to which they are required to be furnished  
6-11 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
6-12 Government Code.

6-13           (b) The governor, one of the required recipients, has  
6-14 submitted the notice and Act to the Texas Commission on  
6-15 Environmental Quality.

6-16           (c) The Texas Commission on Environmental Quality has filed  
6-17 its recommendations relating to this Act with the governor, the  
6-18 lieutenant governor, and the speaker of the house of  
6-19 representatives within the required time.

6-20           (d) All requirements of the constitution and laws of this  
6-21 state and the rules and procedures of the legislature with respect  
6-22 to the notice, introduction, and passage of this Act are fulfilled  
6-23 and accomplished.

6-24           SECTION 4. (a) If this Act does not receive a two-thirds  
6-25 vote of all the members elected to each house, Subchapter C, Chapter  
6-26 7991A, Special District Local Laws Code, as added by Section 1 of  
6-27 this Act, is amended by adding Section 7991A.0306 to read as  
6-28 follows:

6-29           Sec. 7991A.0306. NO EMINENT DOMAIN POWER. The district may  
6-30 not exercise the power of eminent domain.

6-31           (b) This section is not intended to be an expression of a  
6-32 legislative interpretation of the requirements of Section 17(c),  
6-33 Article I, Texas Constitution.

6-34           SECTION 5. This Act takes effect immediately if it receives  
6-35 a vote of two-thirds of all the members elected to each house, as  
6-36 provided by Section 39, Article III, Texas Constitution. If this  
6-37 Act does not receive the vote necessary for immediate effect, this  
6-38 Act takes effect September 1, 2023.

6-39

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