

1-1 By: Kitzman (Senate Sponsor - Kolkhorst) H.B. No. 5350
 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 9, Nays 0; May 10, 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 Waller County Municipal Utility
 1-20 District No. 48; 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 7993A to read as follows:

1-26 CHAPTER 7993A. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 48
 1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7993A.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. 48.

1-35 Sec. 7993A.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. 7993A.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. 7993A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-43 temporary directors may not hold an election under Section
 1-44 7993A.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. 7993A.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. 7993A.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. 7993A.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 7993A.0202, directors
 2-14 serve staggered four-year terms.

2-15 Sec. 7993A.0202. TEMPORARY DIRECTORS. (a) The temporary
 2-16 board consists of:

- 2-17 (1) Andrew Faubion;
- 2-18 (2) Stephen Hallmark;
- 2-19 (3) Dave Ciarella;
- 2-20 (4) Ben Agee; and
- 2-21 (5) Kelly Prewitt.

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

- 2-23 (1) the date permanent directors are elected under
 2-24 Section 7993A.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 7993A.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 7993A.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. 7993A.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. 7993A.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. 7993A.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. 7993A.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. 7993A.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. 7993A.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 7993A.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. 7993A.0402. OPERATION AND MAINTENANCE TAX. (a) If
3-25 authorized at an election held under Section 7993A.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. 7993A.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. 7993A.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. 7993A.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. 7993A.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 Waller County Municipal Utility District
3-59 No. 48 initially includes all the territory contained in the
3-60 following area:

3-61 BEING a 556.1 acre (24,222,967 square foot) tract of land
3-62 situated in the H. & T.C. R.R. Co. Survey, Section 98, Abstract
3-63 No. 286, the H. & T.C. R.R. Co. Survey, Section 81, Abstract
3-64 No. 158, and the H. & T.C. R.R. Co. Survey, Section 82, Abstract
3-65 No. 290 of Waller County, Texas and being all of a called 556.084
3-66 acre tract of land as described in an instrument to Freeland
3-67 (Houston) ASLI X, LLC recorded under Waller County Clerk's File
3-68 Number (W.C.C.F. No.) 2115429, said 556.1 acre tract of land
3-69 described by metes and bounds as follows, with all bearings based on

4-1 the Texas Coordinate System of 1983 (NAD83), South Central Zone
 4-2 4204 and referenced to monuments found along the perimeter of said
 4-3 556.084 acre tract as cited herein:

4-4 BEGINNING at the Northeast corner of said 556.084 acre tract
 4-5 and the herein described tract, same being the Southeast corner of a
 4-6 called 569.5433 acre tract of land as described in an instrument to
 4-7 Weiss Land and Development, LLC recorded under W.C.C.F.
 4-8 No. 1907427, lying on the West right-of-way line of F.M. 2855 (100
 4-9 feet wide as occupied), from which a found 5/8-inch iron rod with
 4-10 cap stamped "SURVCON" bears S 81°34' W, a distance of 0.34 feet and a
 4-11 found 5/8-inch iron rod with cap stamped "THOMAS 5736" bears N
 4-12 02°14' W, a distance of 7.52 feet;

4-13 THENCE, S 02°00'51" E, along and with the East line of said
 4-14 556.084 acre tract and the West right-of-way line of said F.M. 2855,
 4-15 a distance of 1,407.43 feet to the most Easterly Southeast corner of
 4-16 the herein described tract and said 556.084 acre tract, same being
 4-17 the Northeast corner a called 160 acre tract of land as described in
 4-18 an instrument to Dollins Farm Partnership recorded under Vol. 1154,
 4-19 Pg. 184 of the Harris County Deed Records (H.C.D.R.), from which a
 4-20 found 3/4-inch iron rod bears N 59°21' W, a distance of 0.31 feet and
 4-21 a found 5/8-inch iron rod with cap stamped "JONES & CARTER" bears N
 4-22 09°51' W, a distance of 7.52 feet;

4-23 THENCE, S 87°58'30" W, along and with a Southerly line of said
 4-24 556.084 acre tract and the North line of said 160 acre tract, at a
 4-25 distance of 2,624.18 feet pass the Northwest corner of said 160 acre
 4-26 tract and the Northeast corner of a called 318.743 acre tract of
 4-27 land described as Tract 7 in an instrument to Hilcorp Energy I, LP
 4-28 recorded under W.C.C.F. No. 1909037, continuing along and with the
 4-29 a Southerly line of said 556.084 acre tract and the North line of
 4-30 said 318.743 acre tract, a total distance of 5,249.03 feet to an
 4-31 interior corner of the herein described tract and said 556.084 acre
 4-32 tract, same being the Northwest corner of said 318.743 acre tract,
 4-33 from which a found 2-inch iron pipe with cap bears N 70°18' W, 0.64
 4-34 feet;

4-35 THENCE, S 02°00'26" E, along and with the West line of said
 4-36 318.743 acre tract and an Easterly line of said 556.084 acre tract,
 4-37 a distance of 5,283.54 feet to a found 1/2-inch iron rod with
 4-38 aluminum cap found for the most Southerly Southeast corner of the
 4-39 herein described tract and said 556.084 acre tract, same being the
 4-40 Southwest corner of said 318.743 acre tract, the Northwest corner
 4-41 of a called 79.794 acre tract described as Tract 8 in an instrument
 4-42 to Hilcorp Energy I, LP recorded under W.C.C.F. No. 1909468, and
 4-43 the Northeast corner of a called 258.270 acre tract of land
 4-44 described as Tract I in an instrument to Freeland (Houston) ASLI X,
 4-45 LLC recorded under W.C.C.F. No. 2115430, from which a found
 4-46 1/2-inch iron rod bears N 37°22' E, a distance of 5.54 feet;

4-47 THENCE, S 87°59'33" W, along and with the South line of said
 4-48 556.084 acre tract and the North line of said 258.270 acre tract, a
 4-49 distance of 1,717.00 feet to a 5/8-inch iron rod found for the
 4-50 Southwest corner of the herein described tract and said 556.084
 4-51 acre tract, same being the Northwest corner of said 258.270 acre
 4-52 tract, lying on the West line of a called 706.172 acre tract of land
 4-53 described as Tract I in an instrument to City of Houston, Texas
 4-54 recorded under Vol. 397, Pg. 51 and Vol. 397, Pg. 65 of the
 4-55 W.C.D.R.;

4-56 THENCE, N 16°19'33" W, along and with the West line of said
 4-57 556.084 acre tract and the East line of said 706.172 acre tract, a
 4-58 distance of 6,794.62 feet to a 5/8-inch iron rod found the Northwest
 4-59 corner of the herein described tract and said 556.084 acre tract,
 4-60 same being the Southwest corner of said 569.5433 acre tract, from
 4-61 which a found 5/8-inch iron rod with cap stamped "THOMAS 5736" bears
 4-62 N 15°07' W, a distance of 7.65 feet;

4-63 THENCE, along and with the North line of said 556.084 acre
 4-64 tract and a Southerly line of said 569.5433 acre tract, the
 4-65 following courses and distances:

4-66 N 87°59'34" E, a distance of 3,397.43 feet to an interior
 4-67 corner of the herein described tract and said 556.084 acre tract,
 4-68 same being a Southerly corner of said 569.5433 acre tract, from
 4-69 which a found 5/8-inch iron rod with cap stamped "JONES & CARTER"

5-1 bears N 20°37' E, a distance of 0.33 feet and a found 5/8-inch iron
5-2 rod with cap stamped "THOMAS 5736" bears N 14°34' W, a distance of
5-3 7.71 feet;

5-4 N 02°00'26" W, a distance of 107.43 feet along and with
5-5 the East line of said 569.5433 acre tract and the West line of said
5-6 556.084 acre tract to a Northerly corner of the herein described
5-7 tract and said 556.084 acre tract, same being an interior corner of
5-8 said 569.5433 acre tract, from which a found 5/8-inch iron rod with
5-9 cap bears S 75°15' W, a distance of 0.27 feet and a found 5/8-inch
5-10 iron rod with cap bears N 14°21' W, a distance of 7.67 feet;

5-11 N 87°58'30" E, a distance of 5,248.84 feet along and with
5-12 the South line of said 569.5433 acre tract and the North line of
5-13 said 556.084 acre tract to the POINT OF BEGINNING and containing
5-14 556.1 acres (24,222,967 square feet) of land.

5-15 SECTION 3. (a) The legal notice of the intention to
5-16 introduce this Act, setting forth the general substance of this
5-17 Act, has been published as provided by law, and the notice and a
5-18 copy of this Act have been furnished to all persons, agencies,
5-19 officials, or entities to which they are required to be furnished
5-20 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-21 Government Code.

5-22 (b) The governor, one of the required recipients, has
5-23 submitted the notice and Act to the Texas Commission on
5-24 Environmental Quality.

5-25 (c) The Texas Commission on Environmental Quality has filed
5-26 its recommendations relating to this Act with the governor, the
5-27 lieutenant governor, and the speaker of the house of
5-28 representatives within the required time.

5-29 (d) All requirements of the constitution and laws of this
5-30 state and the rules and procedures of the legislature with respect
5-31 to the notice, introduction, and passage of this Act are fulfilled
5-32 and accomplished.

5-33 SECTION 4. (a) If this Act does not receive a two-thirds
5-34 vote of all the members elected to each house, Subchapter C, Chapter
5-35 7993A, Special District Local Laws Code, as added by Section 1 of
5-36 this Act, is amended by adding Section 7993A.0306 to read as
5-37 follows:

5-38 Sec. 7993A.0306. NO EMINENT DOMAIN POWER. The district may
5-39 not exercise the power of eminent domain.

5-40 (b) This section is not intended to be an expression of a
5-41 legislative interpretation of the requirements of Section 17(c),
5-42 Article I, Texas Constitution.

5-43 SECTION 5. This Act takes effect immediately if it receives
5-44 a vote of two-thirds of all the members elected to each house, as
5-45 provided by Section 39, Article III, Texas Constitution. If this
5-46 Act does not receive the vote necessary for immediate effect, this
5-47 Act takes effect September 1, 2023.

5-48 * * * * *