

By: Gerdes

H.B. No. 5368

A BILL TO BE ENTITLED

AN ACT

relating to the Open R Fresh Water Supply District of Caldwell County; 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 7994A to read as follows:

CHAPTER 7994A. OPEN R FRESH WATER SUPPLY DISTRICT OF CALDWELL

COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7994A.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Open R Fresh Water Supply District of Caldwell County.

Sec. 7994A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7994A.0103. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

(a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

1 (2) Section 52, Article III, Texas Constitution, that
2 relate to the construction, acquisition, improvement, operation,
3 or maintenance of macadamized, graveled, or paved roads, or
4 improvements, including storm drainage, in aid of those roads.

5 Sec. 7994A.0104. DISTRICT TERRITORY. (a) The district is
6 composed of the territory described by Section 2 of the Act enacting
7 this chapter.

8 (b) The boundaries and field notes contained in Section 2 of
9 the Act enacting this chapter form a closure. A mistake made in the
10 field notes or in copying the field notes in the legislative process
11 does not affect the district's:

12 (1) organization, existence, or validity;

13 (2) right to issue any type of bond for the purposes
14 for which the district is created or to pay the principal of and
15 interest on a bond;

16 (3) right to impose a tax; or

17 (4) legality or operation.

18 SUBCHAPTER B. POWERS AND DUTIES

19 Sec. 7994A.0201. GENERAL POWERS AND DUTIES. The district
20 has the powers and duties necessary to accomplish the purposes for
21 which the district is created.

22 Sec. 7994A.0202. MUNICIPAL UTILITY DISTRICT POWERS AND
23 DUTIES. The district has the powers and duties provided by the
24 general law of this state, including Chapters 49 and 54, Water Code,
25 applicable to municipal utility districts created under Section 59,
26 Article XVI, Texas Constitution.

27 Sec. 7994A.0203. AUTHORITY FOR ROAD PROJECTS. Under

1 Section 52, Article III, Texas Constitution, the district may
2 design, acquire, construct, finance, issue bonds for, improve,
3 operate, maintain, and convey to this state, a county, or a
4 municipality for operation and maintenance macadamized, graveled,
5 or paved roads, or improvements, including storm drainage, and
6 landscaping, in aid of those roads.

7 Sec. 7994A.0204. ROAD STANDARDS AND REQUIREMENTS. (a) A
8 road project must meet all applicable construction standards,
9 zoning and subdivision requirements, and regulations of each
10 municipality in whose corporate limits or extraterritorial
11 jurisdiction the road project is located.

12 (b) If a road project is not located in the corporate limits
13 or extraterritorial jurisdiction of a municipality, the road
14 project must meet all applicable construction standards,
15 subdivision requirements, and regulations of each county in which
16 the road project is located.

17 (c) If the state will maintain and operate the road, the
18 Texas Transportation Commission must approve the plans and
19 specifications of the road project.

20 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

21 Sec. 7994A.0301. ELECTIONS REGARDING TAXES OR BONDS. (a)
22 The district may issue, without an election, bonds and other
23 obligations secured by:

24 (1) revenue other than ad valorem taxes; or
25 (2) contract payments described by Section
26 7994A.0303.

27 (b) The district must hold an election in the manner

1 provided by Chapters 49 and 54, Water Code, to obtain voter approval
2 before the district may impose an ad valorem tax or issue bonds
3 payable from ad valorem taxes.

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

8 Sec. 7994A.0302. OPERATION AND MAINTENANCE TAX. (a) If
9 authorized at an election held under Section 7994A.0301, the
10 district may impose an operation and maintenance tax on taxable
11 property in the district in accordance with Section 49.107, Water
12 Code.

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

15 Sec. 7994A.0303. CONTRACT TAXES. (a) In accordance with
16 Section 49.108, Water Code, the district may impose a tax other than
17 an operation and maintenance tax and use the revenue derived from
18 the tax to make payments under a contract after the provisions of
19 the contract have been approved by a majority of the district voters
20 voting at an election held for that purpose.

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

24 SUBCHAPTER D. BONDS AND OTHER OBLIGATIONS

25 Sec. 7994A.0401. AUTHORITY TO ISSUE BONDS AND OTHER
26 OBLIGATIONS. The district may issue bonds or other obligations
27 payable wholly or partly from ad valorem taxes, impact fees,

1 revenue, contract payments, grants, or other district money, or any
2 combination of those sources, to pay for any authorized district
3 purpose.

4 Sec. 7994A.0402. TAXES FOR BONDS. At the time the district
5 issues bonds payable wholly or partly from ad valorem taxes, the
6 board shall provide for the annual imposition of a continuing
7 direct ad valorem tax, without limit as to rate or amount, while all
8 or part of the bonds are outstanding as required and in the manner
9 provided by Sections [54.601](#) and [54.602](#), Water Code.

10 Sec. 7994A.0403. BONDS FOR ROAD PROJECTS. At the time of
11 issuance, the total principal amount of bonds or other obligations
12 issued or incurred to finance road projects and payable from ad
13 valorem taxes may not exceed one-fourth of the assessed value of the
14 real property in the district.

15 SECTION 2. The Open R Fresh Water Supply District of
16 Caldwell County includes all the territory contained in the
17 following area:

18 BEING a 10.00 acre tract of land situated in the William Morrison
19 Survey, Abstract Number 187, Caldwell County, Texas, being all of
20 tract of land described in the deed to Michael M. Reynolds, recorded
21 in Volume 130, Page 887, Official Public Records of Caldwell
22 County, Texas, said 10.00 acres being more particularly described
23 as follows;

24 COMMENCING at a found 3/8-inch iron rod with cap stamped "RPLS 454r
25 for the northeast corner of a tract of land described in the deed to
26 Jacob K. Hohertz recorded in Instrument Number 2015-004255,
27 Official Public Records of Caldwell County, Texas;

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1 THENCE North 04 degrees 07 minutes 28 seconds West, a distance of
2 303.33 feet to a set 5/8-inch iron rod with cap stamped "DUNAWAY
3 ASSOC" for the POINT OF BEGINNING;
4 THENCE North 10 degrees 55 minutes 01 second West, a distance of
5 660.00 feet to a found 1/2-inch iron rod with cap stamped "UDG
6 #2433";
7 THENCE North 79 degrees 04 minutes 59 seconds East, a distance of
8 660.00 feet to a found 1/2-inch iron rod with cap stamped "UDG
9 #2433";
10 THENCE South 10 degrees 55 minutes 01 second East, a distance of
11 660.00 feet to set 5/8-inch iron rod with cap stamped "DUNAWAY
12 ASSOC";
13 THENCE South 79 degrees 04 minutes 59 seconds West, a distance of
14 660.00 feet to the POINT OF BEGINNING. CONTAINING a computed area of
15 10.00 acres or 435,600 square feet of land, more or less.
16 METES AND BOUNDS (OVERALL)
17 BEING a 1,278.22 acre tract of land situated in the William Morrison
18 Survey, Abstract Number 187, the Ira Brisbee Survey, Abstract
19 No. 53 and the William Morrison Survey, Abstract Number 200,
20 Caldwell County, Texas, being all of tracts of land described as
21 Tracts 1, 2, 3, 4, 5, 7, 9, 10 and 11 in the deed to Open R. Family
22 Partnership, Ltd., recorded in Volume 536, Page 157, Official
23 Public Records of Caldwell County, Texas, and all of a tract of land
24 described in the deed to Michael M. Reynolds, recorded in Volume
25 130, Page 887, Official Public Records of Caldwell County, Texas,
26 said 1,278.22 acres being more particularly described as follows;
27 BEGINNING at a set 5/8-inch iron rod with cap stamped "DUNAWAY

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1 ASSOC" at the intersection of the west right-of-way line of F.M.
2 2001 (80 foot wide) and the north right-of-way line of Bob White
3 Road (CR 232)
4 (undetermined width right-of-way);
5 THENCE South 80 degrees 13 minutes 21 seconds West, along the north
6 right-of-way line of Bob White Road, a distance of 3,378.55 feet to
7 a found 1/2-inch iron rod with cap (illegible) for the common south
8 corner of said Open R. Family Partnership, Ltd. tract and a tract of
9 land described in the deed to Jacob K. Hohertz recorded in
10 Instrument Number 2015-004255, Official Public Records of Caldwell
11 County, Texas;
12 THENCE North 09 degrees 31 minutes 05 seconds West, departing the
13 north right-of-way line of Bob White Road, along the east line of
14 said to Jacob K. Hohertz tract, a distance of 975.62 feet to a found
15 3/8- inch iron rod with cap stamped "RPLS 454?) for the northeast
16 corner of said to Jacob K. Hohertz tract;
17 THENCE South 78 degrees 45 minutes 59 seconds West, along the north
18 line of said to Jacob K. Hohertz tract, at a distance of 519.41 feet
19 passing a found 1/2-inch iron rod for the common north line of said
20 to Jacob K. Hohertz tract and a tract of land described in the deed
21 to Bob White Ranch Partners, LP, recorded in Instrument Number
22 2020-005485, Official Public Records of Caldwell County, Texas,
23 continuing along the north line of said Bob White Ranch Partners, LP
24 tract, in all a total distance of 5,150.26 feet to a found 1/2-inch
25 iron with cap stamped "UDG #2433" in the east right-of-way line of
26 F.M. 2720 (80 foot wide) being the northwest corner of said Bob
27 White Ranch Partners, LP tract;

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1 THENCE North 41 degrees 18 minutes 01 second West, along the east
2 right-of-way line of F.M. 2720, a distance of 2,311.60 feet to a
3 found 1/2-inch iron rod with cap stamped "UDG #2433" for the
4 southwest corner of a tract of land described in the deed to Ranch
5 Road Bollinger, LLC, recorded in Instrument Number 2021-009404,
6 Official Public Records of Caldwell County, Texas;

7 THENCE North 59 degrees 03 minutes 35 seconds East, departing the
8 east right-of-way line of F.M. 2720 and along the south line of said
9 Ranch Road Bollinger, LLC tract, a distance of 2,317.52 feet to a
10 found stone mound for the southeast corner of said Ranch Road
11 Bollinger, LLC tract;

12 THENCE North 10 degrees 38 minutes 30 seconds West, along the east
13 line of said Ranch Road Bollinger, LLC tract, a distance of 1,714.09
14 feet to a found 1/2-inch iron with cap stamped "UDG #2433" for the
15 common east corner of said Ranch Road Bollinger, LLC tract and a
16 tract of land described in the deed to Marshall G. Varner recorded
17 in Instrument Number 2021-004273, Official Public Records of
18 Caldwell County, Texas;

19 THENCE North 10 degrees 19 minutes 42 seconds West, along the east
20 line of said Marshall G. Varner tract, a distance of 1,082.15 feet
21 to a found mag nail in concrete around a fence post for the
22 southwest corner of a tract of land described in the deed to Uhland
23 High Ground Group, LLC recorded in Instrument Number 2021-007504,
24 Official Public Records of Caldwell County, Texas;

25 THENCE North 79 degrees 20 minutes 07 seconds East, departing the
26 east line of said Marshall G. Varner tract and with a south line of
27 said Uhland High Ground Group, LLC tract, a distance of 3,748.76

1 feet to a found 3-inch metal fence post, for the southernmost
2 southeast corner of said Uhland High Ground Group, LLC tract;
3 THENCE North 10 degrees 28 minutes 44 seconds West, along an east
4 line of said Uhland High Ground Group, LLC tract, a distance of
5 2,039.59 feet to a point from which a found 1/2-iron rod bears South
6 78 degrees 38 minutes 59 seconds East, a distance of 0.39 feet, for
7 an interior ell corner of said Uhland High Ground Group, LLC tract;
8 THENCE North 74 degrees 44 minutes 07 seconds East, along a south
9 line of said Uhland High Ground Group, LLC tract, a distance of
10 3,318.07 feet to a set 5/8-inch iron rod with cap stamped "DUNAWAY
11 ASSOC" in the west right-of-way line of F.M. 2001 for the southeast
12 corner of said Uhland High Ground Group, LLC tract;
13 THENCE South 10 degrees 19 minutes 38 seconds East, along the west
14 right-of-way line of F.M. 2001, a distance of 803.75 feet to a set
15 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC" for the
16 beginning of a circular curve to the left having a radius of
17 2,937.38 feet and whose chord bears South 20 degrees 39 minutes 23
18 seconds East, a chord distance of 1,033.38 feet;
19 THENCE Southeasterly, along said circular curve to the left and
20 along the west right-of-way line of F.M. 2001, through a central
21 angle of 20 degrees 15 minutes 44 seconds, a distance of 1,038.78
22 feet to a found broken concrete TXDOT monument at the end of said
23 curve;
24 THENCE South 30 degrees 34 minutes 49 seconds East, along the west
25 right-of-way line of F.M. 2001, a distance of 344.36 feet to a found
26 1/2-iron rod with cap stamped "UDG #2433" for the beginning of a
27 circular curve to the right having a radius of 2,796.29 feet and

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1 whose chord bears South 20 degrees 25 minutes 48 seconds East, a
2 chord distance of 999.16 feet;
3 THENCE Southeasterly, along said circular curve to the right and
4 along the west right-of-way line of F.M. 2001, through a central
5 angle of 20 degrees 35 minutes 00 seconds, a distance of 1,004.55
6 feet to a found 1/2-iron rod with cap stamped "UDG #2433" at the end
7 of said curve;
8 THENCE South 10 degrees 14 minutes 42 seconds East, along the west
9 right-of-way line of F.M. 2001, a distance of 150.11 feet to a found
10 5/8-iron rod (bent) for the northeast corner of a tract of land
11 described in the deed to Dora Cunningham recorded in Instrument
12 Number 140027, Official Public Records of Caldwell County, Texas;
13 THENCE South 80 degrees 22 minutes 10 seconds West, departing the
14 west right-of-way line of F.M. 2001 and along the north line of said
15 Dora Cunningham tract, a distance of 674.37 feet to a point from
16 which a found 5/8-iron rod bears South 08 degrees 38 minutes 30
17 seconds West, a distance of 0.35 feet for the northwest corner of
18 said Dora Cunningham tract;
19 THENCE South 10 degrees 11 minutes 05 seconds East, along the west
20 line of said Dora Cunningham tract, at a deed distance of 216.09
21 feet passing the common west corner of said Dora Cunningham tract
22 and a tract of land described in the deed to Allison Joyce and Jimmy
23 S. Moore Jr., recorded in Instrument Number 2019-003313, Official
24 Public Records of Caldwell County, Texas, continuing along the west
25 line of said Allison Joyce and Jimmy S. Moore Jr. tract, in all a
26 total distance of 926.23 feet to a found 1/2-iron rod with cap
27 stamped "UDG #2433" for the southwest corner of said Allison Joyce

1 and Jimmy S. Moore Jr. tract;
2 THENCE South 72 degrees 31 minutes 41 seconds East, along the south
3 line of said Allison Joyce and Jimmy S. Moore Jr. tract, a distance
4 of 740.92 feet to a found 5/8-inch iron rod in the west right-of-way
5 line of F.M. 2001 for the southeast corner of said Allison Joyce and
6 Jimmy S. Moore Jr. tract;
7 THENCE South 10 degrees 14 minutes 26 seconds East, along the west
8 right-of-way line of F.M. 2001, a distance of 1,103.31 feet to a
9 found 1/2-iron rod with cap stamped "UDG #2433";
10 THENCE North 79 degrees 45 minutes 34 seconds East, along the west
11 right-of-way line of F.M. 2001, a distance of 20.00 feet to a set
12 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC";
13 THENCE South 10 degrees 14 minutes 26 seconds East, along the west
14 right-of-way line of F.M. 2001, a distance of 984.80 feet to a point
15 from which a found broken concrete TXDOT monument bears North 32
16 degrees 05 minutes 26 seconds East, a distance of 1.36 feet;
17 THENCE South 10 degrees 49 minutes 27 seconds East, along the west
18 right-of-way line of F.M. 2001, a distance of 2,223.17 feet to a
19 point from which a found broken concrete TXDOT monument bears North
20 32 degrees 05 minutes 26 seconds East, a distance of 1.36 feet;
21 THENCE South 12 degrees 38 minutes 33 seconds East, along the west
22 right-of-way line of F.M. 2001, a distance of 15.80 feet to the
23 POINT OF BEGINNING.
24 CONTAINING a computed area of 1,278.22 acres or 55,679,090 square
25 feet of land, more or less.

26 SECTION 3. (a) All governmental and proprietary actions
27 and proceedings of the Open R Fresh Water Supply District of

1 Caldwell County taken before the effective date of this Act are
2 validated, ratified, and confirmed in all respects as of the dates
3 on which they occurred.

4 (b) This section does not apply to any matter that on the
5 effective date of this Act:

6 (1) is involved in litigation if the litigation
7 ultimately results in the matter being held invalid by a final court
8 judgment; or

9 (2) has been held invalid by a final court judgment.

10 SECTION 4. (a) The legal notice of the intention to
11 introduce this Act, setting forth the general substance of this
12 Act, has been published as provided by law, and the notice and a
13 copy of this Act have been furnished to all persons, agencies,
14 officials, or entities to which they are required to be furnished
15 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
16 Government Code.

17 (b) The governor, one of the required recipients, has
18 submitted the notice and Act to the Texas Commission on
19 Environmental Quality.

20 (c) The Texas Commission on Environmental Quality has filed
21 its recommendations relating to this Act with the governor, the
22 lieutenant governor, and the speaker of the house of
23 representatives within the required time.

24 (d) All requirements of the constitution and laws of this
25 state and the rules and procedures of the legislature with respect
26 to the notice, introduction, and passage of this Act are fulfilled
27 and accomplished.

1 SECTION 5. (a) If this Act does not receive a two-thirds
2 vote of all the members elected to each house, Subchapter B, Chapter
3 7994A, Special District Local Laws Code, as added by Section 1 of
4 this Act, is amended by adding Section 7994A.0205 to read as
5 follows:

6 Sec. 7994A.0205. NO EMINENT DOMAIN POWER. The district may
7 not exercise the power of eminent domain.

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

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