

By: Flores

H.B. No. 5650

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Travis County Municipal Utility District No. 40; 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 8014A to read as follows:

CHAPTER 8014A. TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 40

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8014A.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 Travis County Municipal Utility District No. 40.

Sec. 8014A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8014A.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. 8014A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8014A.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 general law.

8 Sec. 8014A.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. 8014A.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. 8014A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 8014A.0202, directors
7 serve staggered four-year terms.

8 Sec. 8014A.0202. TEMPORARY DIRECTORS. (a) On or after the
9 effective date of the Act enacting this chapter, the owner or owners
10 of a majority of the assessed value of the real property in the
11 district may submit a petition to the commission requesting that
12 the commission appoint as temporary directors the five persons
13 named in the petition. The commission shall appoint as temporary
14 directors the five persons named in the petition.

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

16 (1) the date permanent directors are elected under
17 Section 8014A.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 8014A.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 8014A.0103; or

27 (2) the fourth anniversary of the date of the

appointment or reappointment.

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

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8014A.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8014A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8014A.0303. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8014A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, 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. 8014A.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. 8014A.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 8014A.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. 8014A.0402. OPERATION AND MAINTENANCE TAX. (a) If
6 authorized at an election held under Section 8014A.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. 8014A.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. 8014A.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. 8014A.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. 8014A.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 Travis County Municipal Utility District
13 No. 40 initially includes all the territory contained in the
14 following area:

15 TRACT 1:

16 Being 21.95 acres of land, more or less, out of the Augustus
17 Kincheloe Survey, Abstract No. 457, Travis County, Texas, being a
18 portion of that tract conveyed to Stermaster Properties, LLC, by
19 deed recorded in Document No. 2021100283, Official Public Records,
20 Travis County, Texas, as surveyed on the ground by Texas Land
21 Surveying, Inc. on June 15th, 2021, and further described by metes
22 and bounds as follows:

23 BEGINNING at a 1/2 inch iron rod found in concrete in the
24 south line of FM 1327, marking the northeast corner of a tract
25 conveyed to Irma May A. Fernandez De Leon, by deed recorded in
26 Document No. 2018086771, of said Official Public Records, for the
27 northwest corner of said Stermaster tract and this tract;

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1 THENCE: N 73°42'42" E, 799.30 feet with the south line of said
2 FM 1327 and the north line of said Stermaster tract to a 1/2 inch
3 iron rod with pink cap stamped "TLS" set, for the northeast corner
4 of this tract, from which a 1/2 inch iron rod found in concrete,
5 marking the northwest corner of a tract conveyed to Clifford Gus
6 Graef, by deed recorded in Volume 7303, Page 323, Deed Records,
7 Travis County, Texas, also marking the northeast corner of said
8 Stermaster tract, bears N 73°42'42" E, 680.61 feet;

9 THENCE: S 46°59'48" E, 1204.37 feet into and across said
10 Stermaster tract to a 1/2 inch iron rod with pink cap stamped "TLS"
11 set in the north line of a tract conveyed to Michelle Dimanoff, by
12 deed recorded in Document No. 2018193755, of said Official Public
13 Records and the south line of said Stermaster tract, for the
14 southeast corner of this tract, from which a 1/2 inch iron rod found
15 in the west line of said Graef tract, marking the northeast corner
16 of said Dimanoff tract, also marking the southeast corner of said
17 Stermaster tract, bears N 43°00'13" E, 588.93 feet;

18 THENCE: S 43°00'13" W, 672.86 feet with the north line of said
19 Dimanoff tract and the south line of said Stermaster tract to a 1/2
20 inch iron rod with pink cap stamped "TLS" found in the north-south
21 running north line of Tom Sassman Road, marking the northwest
22 corner of said Dimanoff tract, for the southwest corner of said
23 Stermaster tract and this tract;

24 THENCE: N 47°30'25" W, with the north-south running line of
25 said Tom Sassman Road and the west line of said Stermaster tract at
26 5.40 feet passing a 1/2 inch iron rod with orange cap stamped "Hayes
27 RPLS 5703" found, marking the southeast corner of Maha Creek

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1 Estates, said plat recorded in Volume 86, Page 45B, Plat Records,
2 Travis County, Texas, continuing with the east line of said Maha
3 Creek Estates and the west line of said Stermaster tract at 721.47
4 feet passing a 1/2 inch iron rod with "Hayes RPLS 5703" found,
5 continuing in part with the east line of said Maha Creek Estates and
6 with the east line of said Leon tract, and the west line of said
7 Stermaster tract in all 1612.61 feet to the Point of Beginning.

8 TRACT 2:

9 BEING 20.79 ACRES OF LAND OUT OF THE AUGUSTUS KINCHELOE
10 SURVEY NUMBER 2, ABSTRACT NUMBER 457, TRAVIS COUNTY, TEXAS, SAME
11 BEING ALL OF THAT CERTAIN J.M.T.C.V., LTD 21.9716 ACRE TRACT
12 RECORDED IN DOCUMENT NUMBER 2005046836, OFFICIAL PUBLIC RECORDS,
13 TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT THAT CERTAIN 0.608 ACRE TRACT
14 AND THAT CERTAIN 0.575 ACRE TRACT, BOTH RECORDED IN DOCUMENT
15 NUMBERS, 2014186864, 2015054419 AND 2015059567, ALL OF THE OFFICIAL
16 PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, SAID 20.79 ACRES OF LAND TO BE
17 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

18 BEGINNING at an iron rod in the westerly line of that certain
19 Clifford Graef 13.6310 acre tract recorded in Volume 5029, Page
20 107, Deed Records, said county, at the southeast corner of that
21 certain Arlon Wayne Graef 35.87 acre tract recorded in Document
22 Number 2016180663, Official Public Records, said county, same being
23 the northwest corner of said 21.9716 acre tract, for the northwest
24 corner hereof;

25 THENCE South 47 degrees 07 minutes 44 seconds East, along the
26 westerly line of said 13.6310 acre tract and the northerly line of
27 said 21.9716 acre tract, 549.33 feet to an iron rod found in said

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1 line, at the northwest corner of said 0.608 acre tract, for an angle
2 corner in the northerly line hereof;

3 THENCE through said 21.9716 acre tract, along the westerly,
4 southerly and easterly line of said 0.608 acre tract, the following
5 3 calls,

6 1. South 66 degrees 24 minutes 26 seconds West, 209.37 feet
7 to an iron rod found,

8 2. South 26 degrees 19 minutes 46 seconds East, 160.66 feet
9 to an iron rod found,

10 3. North 48 degrees 22 minutes 41 seconds East, 196.16 feet
11 to an iron rod found in the westerly right-of-way line of S. U.S.
12 Highway 183, at the northeast corner of said 0.608 acre tract, same
13 being in the northerly line of said 21.9716 acre tract, for an angle
14 corner in the northerly line hereof;

15 THENCE South 04 degrees 15 minutes 32 seconds East, along
16 said Highway 183 and the northerly line of said 21.9716 acre tract,
17 111.11 feet to an iron rod found at the intersection of said Highway
18 183 and the westerly right-of-way line of Tom Sassman Road, same
19 being the northeast corner of said 21.9716 acre tract, for the
20 northeast corner hereof;

21 THENCE South 18 degrees 20 minutes 06 seconds West, along
22 said Tom Sassman Road and the easterly line of said 21.9716 acre
23 tract, 104.45 feet to an iron rod found in said line, at the
24 northwest corner of said 0.575 acre tract, for an angle corner in
25 the easterly line hereof;

26 THENCE through said 21.9716 acre tract, along the westerly
27 and southerly line of said 0.575 acre tract, the following 6 calls,

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1 1. South 41 degrees 52 minutes 26 seconds West, 245.18 feet
2 to an iron rod found,

3 2. North 48 degrees 16 minutes 41 seconds West, 67.75 feet
4 to an iron rod found,

5 3. South 70 degrees 17 minutes 52 seconds West, 150.75 feet
6 to an iron rod found,

7 4. South 14 degrees 29 minutes 15 seconds East, 100.37 feet
8 to an iron rod found,

9 5. North 70 degrees 13 minutes 40 seconds East, 85.37 feet
10 to an iron rod found,

11 6. South 47 degrees 46 minutes 18 seconds East, 39.04 feet
12 to an iron rod found in said right-of-way line, at the southeast
13 corner of said 0.575 acre tract, same being in the easterly line of
14 said 21.9716 acre tract, for an angle corner in the easterly line
15 hereof;

16 Thence continuing along said right-of-way line and the
17 easterly and southerly line of said 21.9716 acre tract, the
18 following 4 calls,

19 1. South 42 degrees 34 minutes 47 seconds West, 598.66 feet
20 to an iron rod found,

21 2. South 60 degrees 42 minutes 46 seconds West, 26.42 feet
22 to an iron rod set,

23 3. South 89 degrees 54 minutes 48 seconds West, 18.83 feet
24 to an iron rod found at the southeast corner of said 21.9716 acre
25 tract, for the southeast corner hereof,

26 4. North 50 degrees 17 minutes 01 seconds West, 774.74 feet
27 to a fence corner post found at the northeast corner of Maha Creek

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1 Estates, a subdivision recorded in Volume 86, Page 45C, Plat
2 Records, said county, at the southeast corner of said 35.87 acre
3 tract, same being the southwest corner of said 21.9716 acre tract,
4 for the southwest corner hereof;

5 THENCE North 43 degrees 00 minutes 22 seconds East, along the
6 easterly line of said 35.87 acre tract and the westerly line of said
7 21.9716 acre tract, 1,261.79 feet to the POINT OF BEGINNING.

8 TRACT 3:

9 Being 13.88 acres of land, more or less, out of the Augustus
10 Kincheloe Survey, Abstract No. 457, Travis County, Texas, being a
11 portion of that tract conveyed to Stermaster Properties, LLC, by
12 deed recorded in Document No. 2021100283, Official Public Records,
13 Travis County, Texas, as surveyed on the ground by Texas Land
14 Surveying, Inc. on June 15th, 2021, and further described by metes
15 and bounds as follows:

16 BEGINNING at a 1/2 inch iron rod found in concrete in the
17 south line of FM 1327, marking the northwest corner of a tract
18 conveyed to Clifford Gus Graef, by deed recorded in Volume 7303,
19 Page 323, of said Deed Records, for the northeast corner of said
20 Stermaster tract and this tract, from which a concrete monument
21 found, marking the northeast corner of said Graef tract, bears N
22 73°43'54" E, 806.93 feet;

23 THENCE: S 47°14'51" E, 856.82 feet with the west line of said
24 Graef tract and the east line of said Stermaster tract to a 1/2 inch
25 iron rod found, marking the northeast corner of a tract conveyed to
26 Michelle Dimanoff, by deed recorded in Document No. 2018193755, of
27 said Official Public Records, for the southeast corner of said

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1 Stermaster tract and this tract, from which a 1/2 inch iron rod with
2 aluminum cap stamped "TxDOT" found, marking the southwest corner of
3 said Graef tract, also marking an angle point of said Dimanoff
4 tract, bears S 47°08'02" E, 549.50 feet;

5 THENCE: S 43°00'13" W, 588.93 feet with the north line of said
6 Dimanoff tract and the south line of said Stermaster tract to a 1/2
7 inch iron rod with pink cap stamped "TLS" set, for the southwest
8 corner of this tract, from which a 1/2 inch iron rod with pink cap
9 stamped "TLS" found in the north-south running north line of Tom
10 Sassman Road, marking the northwest corner of said Dimanoff tract,
11 also marking the southwest corner of said Stermaster tract, bears S
12 43°00'13" W, 672.86 feet;

13 THENCE: N 46°59'48" W, 1204.37 feet into and across said
14 Stermaster tract to a 1/2 inch iron rod with pink cap stamped "TLS"
15 set in the south line of said FM 1327, for the northwest corner of
16 this tract, from which a 1/2 inch iron rod found in concrete,
17 marking the northeast corner of a tract conveyed to Irma May A.
18 Fernandez De Leon, by deed recorded in Document No. 2018086771, of
19 said Official Public Records, also marking the northwest corner of
20 said Stermaster tract, bears N 73°42'42" E, 799.30 feet;

21 THENCE: N 73°42'42" E, 680.61 feet with the south line of said
22 FM 1327 and the north line of said Schaarschmidt tract to the Point
23 of Beginning.

24 SECTION 3. (a) The legal notice of the intention to
25 introduce this Act, setting forth the general substance of this
26 Act, has been published as provided by law, and the notice and a
27 copy of this Act have been furnished to all persons, agencies,

officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8014A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8014A.0306 to read as follows:

Sec. 8014A.0306. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2025.