

1-1 By: Zerwas (Senate Sponsor - Kolthorst) H.B. No. 4636
1-2 (In the Senate - Received from the House May 6, 2019;
1-3 May 6, 2019, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 15, 2019, reported favorably by
1-5 the following vote: Yeas 7, Nays 0; May 15, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the creation of the Orchard Municipal Utility District
1-18 No. 1; granting a limited power of eminent domain; providing
1-19 authority to issue bonds; providing authority to impose
1-20 assessments, fees, and taxes.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle F, Title 6, Special District Local Laws
1-23 Code, is amended by adding Chapter 8079 to read as follows:

1-24 CHAPTER 8079. ORCHARD MUNICIPAL UTILITY DISTRICT NO. 1

1-25 SUBCHAPTER A. GENERAL PROVISIONS

1-26 Sec. 8079.0101. DEFINITIONS. In this chapter:

1-27 (1) "Board" means the district's board of directors.

1-28 (2) "Commission" means the Texas Commission on
1-29 Environmental Quality.

1-30 (3) "Director" means a board member.

1-31 (4) "District" means the Orchard Municipal Utility
1-32 District No. 1.

1-33 Sec. 8079.0102. NATURE OF DISTRICT. The district is a
1-34 municipal utility district created under Section 59, Article XVI,
1-35 Texas Constitution.

1-36 Sec. 8079.0103. CONFIRMATION AND DIRECTORS' ELECTION
1-37 REQUIRED. The temporary directors shall hold an election to
1-38 confirm the creation of the district and to elect five permanent
1-39 directors as provided by Section 49.102, Water Code.

1-40 Sec. 8079.0104. CONSENT OF MUNICIPALITY REQUIRED. The
1-41 temporary directors may not hold an election under Section
1-42 8079.0103 or 8079.0401, issue bonds, or incur debt until each
1-43 municipality in whose corporate limits or extraterritorial
1-44 jurisdiction the district is located has consented by ordinance or
1-45 resolution to the creation of the district and to the inclusion of
1-46 land in the district.

1-47 Sec. 8079.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-48 (a) The district is created to serve a public purpose and benefit.

1-49 (b) The district is created to accomplish the purposes of:

1-50 (1) a municipal utility district as provided by
1-51 general law and Section 59, Article XVI, Texas Constitution; and

1-52 (2) Section 52, Article III, Texas Constitution, that
1-53 relate to the construction, acquisition, improvement, operation,
1-54 or maintenance of macadamized, graveled, or paved roads, or
1-55 improvements, including storm drainage, in aid of those roads.

1-56 Sec. 8079.0106. INITIAL DISTRICT TERRITORY. (a) The
1-57 district is initially composed of the territory described by
1-58 Section 2 of the Act enacting this chapter.

1-59 (b) The boundaries and field notes contained in Section 2 of
1-60 the Act enacting this chapter form a closure. A mistake made in the
1-61 field notes or in copying the field notes in the legislative process

2-1 does not affect the district's:

2-2 (1) organization, existence, or validity;

2-3 (2) right to issue any type of bond for the purposes
2-4 for which the district is created or to pay the principal of and
2-5 interest on a bond;

2-6 (3) right to impose a tax; or

2-7 (4) legality or operation.

2-8 SUBCHAPTER B. BOARD OF DIRECTORS

2-9 Sec. 8079.0201. GOVERNING BODY; TERMS. (a) The district is
2-10 governed by a board of five elected directors.

2-11 (b) Except as provided by Section 8079.0202, directors
2-12 serve staggered four-year terms.

2-13 Sec. 8079.0202. TEMPORARY DIRECTORS. (a) On or after the
2-14 effective date of the Act enacting this chapter, the owner or owners
2-15 of a majority of the assessed value of the real property in the
2-16 district may submit a petition to the commission requesting that
2-17 the commission appoint as temporary directors the five persons
2-18 named in the petition. The commission shall appoint as temporary
2-19 directors the five persons named in the petition.

2-20 (b) Temporary directors serve until the earlier of:

2-21 (1) the date permanent directors are elected under
2-22 Section 8079.0103; or

2-23 (2) the fourth anniversary of the effective date of
2-24 the Act enacting this chapter.

2-25 (c) If permanent directors have not been elected under
2-26 Section 8079.0103 and the terms of the temporary directors have
2-27 expired, successor temporary directors shall be appointed or
2-28 reappointed as provided by Subsection (d) to serve terms that
2-29 expire on the earlier of:

2-30 (1) the date permanent directors are elected under
2-31 Section 8079.0103; or

2-32 (2) the fourth anniversary of the date of the
2-33 appointment or reappointment.

2-34 (d) If Subsection (c) applies, the owner or owners of a
2-35 majority of the assessed value of the real property in the district
2-36 may submit a petition to the commission requesting that the
2-37 commission appoint as successor temporary directors the five
2-38 persons named in the petition. The commission shall appoint as
2-39 successor temporary directors the five persons named in the
2-40 petition.

2-41 SUBCHAPTER C. POWERS AND DUTIES

2-42 Sec. 8079.0301. GENERAL POWERS AND DUTIES. The district
2-43 has the powers and duties necessary to accomplish the purposes for
2-44 which the district is created.

2-45 Sec. 8079.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
2-46 DUTIES. The district has the powers and duties provided by the
2-47 general law of this state, including Chapters 49 and 54, Water Code,
2-48 applicable to municipal utility districts created under Section 59,
2-49 Article XVI, Texas Constitution.

2-50 Sec. 8079.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
2-51 52, Article III, Texas Constitution, the district may design,
2-52 acquire, construct, finance, issue bonds for, improve, operate,
2-53 maintain, and convey to this state, a county, or a municipality for
2-54 operation and maintenance macadamized, graveled, or paved roads, or
2-55 improvements, including storm drainage, in aid of those roads.

2-56 Sec. 8079.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
2-57 road project must meet all applicable construction standards,
2-58 zoning and subdivision requirements, and regulations of each
2-59 municipality in whose corporate limits or extraterritorial
2-60 jurisdiction the road project is located.

2-61 (b) If a road project is not located in the corporate limits
2-62 or extraterritorial jurisdiction of a municipality, the road
2-63 project must meet all applicable construction standards,
2-64 subdivision requirements, and regulations of each county in which
2-65 the road project is located.

2-66 (c) If the state will maintain and operate the road, the
2-67 Texas Transportation Commission must approve the plans and
2-68 specifications of the road project.

2-69 Sec. 8079.0305. COMPLIANCE WITH MUNICIPAL CONSENT

3-1 ORDINANCE OR RESOLUTION. The district shall comply with all
3-2 applicable requirements of any ordinance or resolution that is
3-3 adopted under Section 54.016 or 54.0165, Water Code, and that
3-4 consents to the creation of the district or to the inclusion of land
3-5 in the district.

3-6 Sec. 8079.0306. DIVISION OF DISTRICT. (a) The district may
3-7 be divided into two or more new districts only if the district:

3-8 (1) has no outstanding bonded debt; and

3-9 (2) is not imposing ad valorem taxes.

3-10 (b) This chapter applies to any new district created by the
3-11 division of the district, and a new district has all the powers and
3-12 duties of the district.

3-13 (c) Any new district created by the division of the district
3-14 may not, at the time the new district is created, contain any land
3-15 outside the area described by Section 2 of the Act enacting this
3-16 chapter.

3-17 (d) The board, on its own motion or on receipt of a petition
3-18 signed by the owner or owners of a majority of the assessed value of
3-19 the real property in the district, may adopt an order dividing the
3-20 district.

3-21 (e) The board may adopt an order dividing the district
3-22 before or after the date the board holds an election under Section
3-23 8079.0103 to confirm the district's creation.

3-24 (f) An order dividing the district must:

3-25 (1) name each new district;

3-26 (2) include the metes and bounds description of the
3-27 territory of each new district;

3-28 (3) appoint temporary directors for each new district;

3-29 and

3-30 (4) provide for the division of assets and liabilities
3-31 between or among the new districts.

3-32 (g) On or before the 30th day after the date of adoption of
3-33 an order dividing the district, the district shall file the order
3-34 with the commission and record the order in the real property
3-35 records of each county in which the district is located.

3-36 (h) Any new district created by the division of the district
3-37 shall hold a confirmation and directors' election as required by
3-38 Section 8079.0103.

3-39 (i) Municipal consent to the creation of the district and to
3-40 the inclusion of land in the district granted under Section
3-41 8079.0104 acts as municipal consent to the creation of any new
3-42 district created by the division of the district and to the
3-43 inclusion of land in the new district.

3-44 (j) Any new district created by the division of the district
3-45 must hold an election as required by this chapter to obtain voter
3-46 approval before the district may impose a maintenance tax or issue
3-47 bonds payable wholly or partly from ad valorem taxes.

3-48 (k) If the creation of the new district is confirmed, the
3-49 new district shall provide the election date and results to the
3-50 commission.

3-51 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-52 Sec. 8079.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
3-53 The district may issue, without an election, bonds and other
3-54 obligations secured by:

3-55 (1) revenue other than ad valorem taxes; or

3-56 (2) contract payments described by Section 8079.0403.

3-57 (b) The district must hold an election in the manner
3-58 provided by Chapters 49 and 54, Water Code, to obtain voter approval
3-59 before the district may impose an ad valorem tax or issue bonds
3-60 payable from ad valorem taxes.

3-61 (c) The district may not issue bonds payable from ad valorem
3-62 taxes to finance a road project unless the issuance is approved by a
3-63 vote of a two-thirds majority of the district voters voting at an
3-64 election held for that purpose.

3-65 Sec. 8079.0402. OPERATION AND MAINTENANCE TAX. (a) If
3-66 authorized at an election held under Section 8079.0401, the
3-67 district may impose an operation and maintenance tax on taxable
3-68 property in the district in accordance with Section 49.107, Water
3-69 Code.

4-1 (b) The board shall determine the tax rate. The rate may not
 4-2 exceed the rate approved at the election.

4-3 Sec. 8079.0403. CONTRACT TAXES. (a) In accordance with
 4-4 Section 49.108, Water Code, the district may impose a tax other than
 4-5 an operation and maintenance tax and use the revenue derived from
 4-6 the tax to make payments under a contract after the provisions of
 4-7 the contract have been approved by a majority of the district voters
 4-8 voting at an election held for that purpose.

4-9 (b) A contract approved by the district voters may contain a
 4-10 provision stating that the contract may be modified or amended by
 4-11 the board without further voter approval.

4-12 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

4-13 Sec. 8079.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 4-14 OBLIGATIONS. The district may issue bonds or other obligations
 4-15 payable wholly or partly from ad valorem taxes, impact fees,
 4-16 revenue, contract payments, grants, or other district money, or any
 4-17 combination of those sources, to pay for any authorized district
 4-18 purpose.

4-19 Sec. 8079.0502. TAXES FOR BONDS. At the time the district
 4-20 issues bonds payable wholly or partly from ad valorem taxes, the
 4-21 board shall provide for the annual imposition of a continuing
 4-22 direct ad valorem tax, without limit as to rate or amount, while all
 4-23 or part of the bonds are outstanding as required and in the manner
 4-24 provided by Sections 54.601 and 54.602, Water Code.

4-25 Sec. 8079.0503. BONDS FOR ROAD PROJECTS. At the time of
 4-26 issuance, the total principal amount of bonds or other obligations
 4-27 issued or incurred to finance road projects and payable from ad
 4-28 valorem taxes may not exceed one-fourth of the assessed value of the
 4-29 real property in the district.

4-30 SECTION 2. The Orchard Municipal Utility District No. 1
 4-31 initially includes all the territory contained in the following
 4-32 area:

4-33 A Field Note Description of 1443 Acres of Land, more or less,
 4-34 being in the Heirs of L. Burknapp Survey, Abstract 109; B.B.B. & C.
 4-35 Railroad Company Survey No. 19, Abstract 135; German Emigration
 4-36 Company Survey, Abstract 181; W.T. Lightfoot Survey, Abstract 282
 4-37 and Yandell Ferris Survey, Abstract 376, Fort Bend County, Texas.

4-38 Beginning at a point in Long Lane marking the Southeast
 4-39 corner of the Gail Borden League, Abstract 12; said point being in a
 4-40 West line of this tract;

4-41 THENCE, North, 784 feet, more or less, along the East line of
 4-42 said Gail Borden League, Abstract 12 and a West line of said L.
 4-43 Burknapp Survey, Abstract 109 and the centerline of Long Lane to a
 4-44 point marking the Northwest corner of this tract;

4-45 THENCE, East, 2403 feet, more or less, along the North line of
 4-46 said Heirs of L. Burknapp Survey, Abstract 109 and the centerline of
 4-47 Roper Road to a point for corner;

4-48 THENCE, South, 1212 feet, more or less, along the West line of
 4-49 the said W.T. Lightfoot Survey, Abstract 282 to a point for corner;

4-50 THENCE, East, 3662 feet, more or less, along the South line of
 4-51 five (5) parcels owned by others to a point in the East line of said
 4-52 W.T. Lightfoot Survey, Abstract 282 for re-entrant corner;

4-53 THENCE, North, 1298 feet, more or less, to the Northwest
 4-54 corner of the said German Emigration Company Survey, Abstract 181
 4-55 for corner;

4-56 THENCE, East, 8340 feet, more or less, along the North line of
 4-57 said German Emigration Company Survey, Abstract 181 and the North
 4-58 line of the said B.B.B. & C. Railroad Company Survey No. 19,
 4-59 Abstract 135 to the Northeast corner of said B.B.B. & C. Railroad
 4-60 Company Survey No. 19, Abstract 135 and Southeast corner of the
 4-61 Sarah Kennedy League, Abstract 45 and being in the West line of the
 4-62 Nancy Spencer Survey, Abstract 88;

4-63 THENCE, South, along the East line of said B.B.B. & C.
 4-64 Railroad Company Survey No. 19, Abstract 135 and the Yandell Ferris
 4-65 Survey, Abstract 376 and being in the West line of the Nancy Spencer
 4-66 League, Abstract 88, 4586 feet, more or less to a point for corner
 4-67 in a Westerly City of Rosenberg 5280 foot Radius Extra-Territorial
 4-68 Jurisdiction Line for corner;

4-69 THENCE, South 35deg.18' West, 1959 feet more or less, along

5-1 said City of Rosenberg 5280 foot Radius Extra-Territorial
5-2 Jurisdiction Line curve to the left, to a point in the Northeast
5-3 line of the G.C. & S.F. Railroad right-of-way for corner;
5-4 THENCE, North 70deg.24' West, 845 feet, more or less, along
5-5 said Northeast line of the G.C. & S.F. Railroad right-of-way to a
5-6 point for corner;
5-7 THENCE, South, crossing the G.C. & S.F. Railroad
5-8 right-of-way and State Highway No. 36 then along the East line of
5-9 the 85 Acre Lot 2, a total distance of 2426 feet, more or less, to
5-10 the Southeast corner of the Wade McNeill call 85 Acre Lot 2 of the
5-11 J.M. MOORE SUBDIVISION (Volume 109, Page 585; Deed Records);
5-12 THENCE, West, 1479 feet, more or less, to the Southwest
5-13 corner of said 85 Acre Tract;
5-14 THENCE, North, 2695 feet, more of less, to a point in the
5-15 Southwest line of State Highway No. 36 marking the Northwest corner
5-16 of said McNeill Tract;
5-17 THENCE, North 70deg.14' West, 3493 feet, more or less, along
5-18 said Southwest line of said State Highway No. 36 to a point in the
5-19 West line of said Yandell Ferris Survey and East line of the said
5-20 German Emigration Company Survey, Abstract 181 for corner;
5-21 THENCE, South, 978 feet, along the West line of said Yandell
5-22 Ferris Survey and East line of the German Emigration Company
5-23 Survey, Abstract 181 to the Northeast corner of the Heirs of L.
5-24 Burknap Survey, Abstract 109 for corner;
5-25 THENCE, West, 1638 feet, more or less, along the South line of
5-26 said German Emigration Company Survey, Abstract 181 and a North
5-27 line of said Heirs of L. Burknap Survey, Abstract 109 to a point in
5-28 the East line of said W.T. Lightfoot Survey, Abstract 283 for
5-29 corner;
5-30 THENCE, North, 1577 feet, more or less, along the West line of
5-31 the German Emigration Company Survey, Abstract 181 and East line of
5-32 said W.T. Lightfoot Survey, Abstract 283 to a point in the Southwest
5-33 line of the State Highway No. 36 for corner;
5-34 THENCE, North 70deg.17' West, 390 feet, more or less along
5-35 the North line of said W.T. Lightfoot Survey, Abstract 283 and South
5-36 line of the said W.T. Lightfoot Survey, Abstract 282 for corner;
5-37 THENCE, West, 3393 feet, along said North line of said W.T.
5-38 Lightfoot Survey, Abstract 283 and South line of the W.T. Lightfoot
5-39 Survey, Abstract 282 to the Southwest corner of said W.T. Lightfoot
5-40 Survey, Abstract 282;
5-41 THENCE, North, 564 feet, more or less, to angle point;
5-42 THENCE, North 8deg.26' East, 514.22 feet, more or less, to a
5-43 point in the Southwest line of said State Highway No. 36 for corner;
5-44 THENCE, North 70deg.08' West, 2524.26 feet, more or less,
5-45 along the Southwest line of said State Highway No. 36 to a point
5-46 marking the Southwest corner for this tract;
5-47 THENCE, North, crossing State Highway No. 36 and said G.C. &
5-48 S.F. Railroad right-of-way, then along the centerline of Long Lane
5-49 in all, 915 feet, more or less, to the place of beginning and
5-50 containing 1443 Acres of Land, more or less.

5-51 SECTION 3. (a) The legal notice of the intention to
5-52 introduce this Act, setting forth the general substance of this
5-53 Act, has been published as provided by law, and the notice and a
5-54 copy of this Act have been furnished to all persons, agencies,
5-55 officials, or entities to which they are required to be furnished
5-56 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-57 Government Code.

5-58 (b) The governor, one of the required recipients, has
5-59 submitted the notice and Act to the Texas Commission on
5-60 Environmental Quality.

5-61 (c) The Texas Commission on Environmental Quality has filed
5-62 its recommendations relating to this Act with the governor, the
5-63 lieutenant governor, and the speaker of the house of
5-64 representatives within the required time.

5-65 (d) All requirements of the constitution and laws of this
5-66 state and the rules and procedures of the legislature with respect
5-67 to the notice, introduction, and passage of this Act are fulfilled
5-68 and accomplished.

5-69 SECTION 4. (a) If this Act does not receive a two-thirds

6-1 vote of all the members elected to each house, Subchapter C, Chapter
6-2 8079, Special District Local Laws Code, as added by Section 1 of
6-3 this Act, is amended by adding Section 8079.0307 to read as follows:

6-4 Sec. 8079.0307. NO EMINENT DOMAIN POWER. The district may
6-5 not exercise the power of eminent domain.

6-6 (b) This section is not intended to be an expression of a
6-7 legislative interpretation of the requirements of Section 17(c),
6-8 Article I, Texas Constitution.

6-9 SECTION 5. This Act takes effect immediately if it receives
6-10 a vote of two-thirds of all the members elected to each house, as
6-11 provided by Section 39, Article III, Texas Constitution. If this
6-12 Act does not receive the vote necessary for immediate effect, this
6-13 Act takes effect September 1, 2019.

6-14

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