

By: Stucky

H. B. No. 4720

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to the creation of the Burns Branch Municipal Utility  
3 District No. 1 of Denton County; granting a limited power of eminent  
4 domain; providing authority to issue bonds; providing authority to  
5 impose assessments, fees, and taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
8 Code, is amended by adding Chapter 8095 to read as follows:

9 CHAPTER 8095. BURNS BRANCH MUNICIPAL UTILITY DISTRICT NO. 1 OF

10 DENTON COUNTY

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 8095.0101. DEFINITIONS. In this chapter:

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

16 (3) "Director" means a board member.

19           Sec. 8095.0102. NATURE OF DISTRICT. The district is a  
20 municipal utility district created under Section 59, Article XVI,  
21 Texas Constitution.

22 Sec. 8095.0103. CONFIRMATION AND DIRECTOR ELECTION  
23 REQUIRED. The temporary directors shall hold an election to  
24 confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 8095.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
3 temporary directors may not hold an election under Section  
4 8095.0103 until each municipality in whose corporate limits or  
5 extraterritorial jurisdiction the district is located has  
6 consented by ordinance or resolution to the creation of the  
7 district and to the inclusion of land in the district.

8 Sec. 8095.0105. 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. 8095.0106. 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. 8095.0201. GOVERNING BODY; TERMS. (a) The district is  
5 governed by a board of five elected directors.

6                   (b) Except as provided by Section 8095.0202, directors  
7 serve staggered four-year terms.

8                   Sec. 8095.0202. TEMPORARY DIRECTORS. (a) On or after  
9 September 1, 2019, the owner or owners of a majority of the assessed  
10 value of the real property in the district may submit a petition to  
11 the commission requesting that the commission appoint as temporary  
12 directors the five persons named in the petition. The commission  
13 shall appoint as temporary directors the five persons named in the  
14 petition.

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

16                   (1) the date permanent directors are elected under  
17 Section 8095.0103; or

18                   (2) September 1, 2023.

19                   (c) If permanent directors have not been elected under  
20 Section 8095.0103 and the terms of the temporary directors have  
21 expired, successor temporary directors shall be appointed or  
22 reappointed as provided by Subsection (d) to serve terms that  
23 expire on the earlier of:

24                   (1) the date permanent directors are elected under  
25 Section 8095.0103; or

26                   (2) the fourth anniversary of the date of the  
27 appointment or reappointment.

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

## SUBCHAPTER C. POWERS AND DUTIES

9           Sec. 8095.0301. GENERAL POWERS AND DUTIES. The district  
10          has the powers and duties necessary to accomplish the purposes for  
11          which the district is created.

12                   Sec. 8095.0302. MUNICIPAL UTILITY DISTRICT POWERS AND  
13                   DUTIES. The district has the powers and duties provided by the  
14                   general law of this state, including Chapters 49 and 54, Water Code,  
15                   applicable to municipal utility districts created under Section 59,  
16                   Article XVI, Texas Constitution.

17 Sec. 8095.0303. AUTHORITY FOR ROAD PROJECTS. Under Section  
18 52, Article III, Texas Constitution, the district may design,  
19 acquire, construct, finance, issue bonds for, improve, operate,  
20 maintain, and convey to this state, a county, or a municipality for  
21 operation and maintenance macadamized, graveled, or paved roads, or  
22 improvements, including storm drainage, in aid of those roads.

1        (b) If a road project is not located in the corporate limits  
2        or extraterritorial jurisdiction of a municipality, the road  
3        project must meet all applicable construction standards,  
4        subdivision requirements, and regulations of each county in which  
5        the road project is located.

6        (c) If the state will maintain and operate the road, the  
7        Texas Transportation Commission must approve the plans and  
8        specifications of the road project.

9        Sec. 8095.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
10        ORDINANCE OR RESOLUTION. The district shall comply with all  
11        applicable requirements of any ordinance or resolution that is  
12        adopted under Section 54.016 or 54.0165, Water Code, and that  
13        consents to the creation of the district or to the inclusion of land  
14        in the district.

15        Sec. 8095.0306. DIVISION OF DISTRICT. (a) The district may  
16        be divided into two or more new districts only if the district:  
17            (1) has no outstanding bonded debt; and  
18            (2) is not imposing ad valorem taxes.

19        (b) This chapter applies to any new district created by the  
20        division of the district, and a new district has all the powers and  
21        duties of the district.

22        (c) Any new district created by the division of the district  
23        may not, at the time the new district is created, contain any land  
24        outside the area described by Section 2 of the Act enacting this  
25        chapter.

26        (d) A new district created by the division of the district  
27        may contain land in Denton County only if the commissioners court of

1 Denton County consents to the creation of the new district and the  
2 inclusion of the land.

3 (e) Subject to Subsection (d), the board, on its own motion  
4 or on receipt of a petition signed by the owner or owners of a  
5 majority of the assessed value of the real property in the district,  
6 may adopt an order dividing the district.

7 (f) The board may adopt an order dividing the district  
8 before or after the date the board holds an election under Section  
9 8095.0103 to confirm the district's creation.

10 (g) An order dividing the district shall:

11 (1) name each new district;  
12 (2) include the metes and bounds description of the  
13 territory of each new district;

14 (3) appoint temporary directors for each new district;  
15 and

16 (4) provide for the division of assets and liabilities  
17 between the new districts.

18 (h) On or before the 30th day after the date of adoption of  
19 an order dividing the district, the district shall file the order  
20 with the commission and record the order in the real property  
21 records of each county in which the district is located.

22 (i) Any new district created by the division of the district  
23 shall hold a confirmation and directors' election as required by  
24 Section 8095.0103. If the voters of a new district do not confirm  
25 the creation of the new district, the assets, obligations,  
26 territory, and governance of the new district revert to the  
27 original district.

1        (j) Municipal consent to the creation of the district and to  
2        the inclusion of land in the district granted under Section  
3        8095.0104 acts as municipal consent to the creation of any new  
4        district created by the division of the district and to the  
5        inclusion of land in the new district.

6        (k) Any new district created by the division of the district  
7        must hold an election as required by this chapter to obtain voter  
8        approval before the district may impose a maintenance tax or issue  
9        bonds payable wholly or partly from ad valorem taxes.

10        SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

11        Sec. 8095.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
12        The district may issue, without an election, bonds and other  
13        obligations secured by:

14        (1) revenue other than ad valorem taxes; or  
15        (2) contract payments described by Section 8095.0403.

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

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

24        Sec. 8095.0402. OPERATION AND MAINTENANCE TAX. (a) If  
25        authorized at an election held under Section 8095.0401, the  
26        district may impose an operation and maintenance tax on taxable  
27        property in the district in accordance with Section 49.107, Water

1 Code.

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

4       Sec. 8095.0403. CONTRACT TAXES. (a) In accordance with  
5 Section 49.108, Water Code, the district may impose a tax other than  
6 an operation and maintenance tax and use the revenue derived from  
7 the tax to make payments under a contract after the provisions of  
8 the contract have been approved by a majority of the district voters  
9 voting at an election held for that purpose.

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

13                   SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

14       Sec. 8095.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
15 OBLIGATIONS. The district may issue bonds or other obligations  
16 payable wholly or partly from ad valorem taxes, impact fees,  
17 revenue, contract payments, grants, or other district money, or any  
18 combination of those sources, to pay for any authorized district  
19 purpose.

20       Sec. 8095.0502. TAXES FOR BONDS. At the time the district  
21 issues bonds payable wholly or partly from ad valorem taxes, the  
22 board shall provide for the annual imposition of a continuing  
23 direct ad valorem tax, without limit as to rate or amount, while all  
24 or part of the bonds are outstanding as required and in the manner  
25 provided by Sections 54.601 and 54.602, Water Code.

26       Sec. 8095.0503. BONDS FOR ROAD PROJECTS. At the time of  
27 issuance, the total principal amount of bonds or other obligations

1 issued or incurred to finance road projects and payable from ad  
2 valorem taxes may not exceed one-fourth of the assessed value of the  
3 real property in the district.

4 SECTION 2. The Burns Branch Municipal Utility District  
5 No. 1 of Denton County initially includes all the territory  
6 contained in the following area:

7 *FIELD NOTES WISE COUNTY*

8 *SITUATED in the State of Texas and County of Wise, being part of the*  
9 *E. I McDaniel Survey, Abstract No. 808, Joseph Luce Survey,*  
10 *Abstract No. 497, William Chadwell Survey, Abstract No. 1321, S. D.*  
11 *Chadwell Survey, Abstract No. 1320, G. I Walton Survey, Abstract*  
12 *No. 1361 and the A. P Lancaster Survey, Abstract No. 1257 and being*  
13 *part of tract as recorded in CC# 2009-102747 of the Deed Records of*  
14 *Denton County, said premises being more particularly described as*  
15 *follows;*

16 *BEGINNING at a point for corner marking the southeast corner of said*  
17 *premises, said point being on the Denton Wise County line per deed*  
18 *recorded in Volume 264, Page 508;*

19 *THENCE with the south line of said premises as follows,*

20 *South 59°48 '00" West, 592.47 feet;*

21 *South 45°55 '34" West, 2,584.96 feet;*

22 *South 84°26 '09" West, 729.95 feet;*

23 *South 89°51 '00" West, 773.95 feet;*

24 *South 82°53 '00" West, 525.14 feet;*

25 *South 73°44 '00" West, 233.52 feet;*

26 *South 40°52 '00" West, 79.51 feet;*

27 *North 50°55 '00" West, 233.24 feet to a point for corner*

1 marking the southwest corner of said premises and being in the  
2 center of Denton Creek;  
3 THENCE with said creek as follows,  
4       North 22°43'00" East, 173.47 feet;  
5       North 35°51'00" East, 543.21 feet;  
6       North 04°13'00" West, 19043 feet;  
7       North 50°12'00" East, 117.32 feet;  
8       North 83°41'00" East, 281.89 feet;  
9       North 17°42'00" East, 98.69 feet;  
10      North 11°48'00" West, 460.09 feet;  
11      North 42°23'00" East, 155.68 feet;  
12      South 89°47'00" East, 135.11 feet;  
13      South 19°48'00" East, 132.88 feet;  
14      North 88°39'00" East, 128.16 feet;  
15      North 21°15'00" East, 214.06 feet;  
16      North 88°46'00" East, 92.85 feet;  
17      South 57°38'00" East, 203.77 feet;  
18      North 19°45'00" East, 192.38 feet;  
19      North 62°17'00" East, 333.60 feet;  
20      North 50°53'00" East, 710.57 feet;  
21      North 60°48'00" East, 789.80 feet;  
22      North 10°41'00" West, 53.93 feet;  
23      THENCE departing said creek and with the west line of said premises,  
24      South 43°54'00" East, 1,720.82 feet to a point for corner marking an  
25      internal corner of said premises;  
26      THENCE with the north line of said premises, South 46°27'00" East,  
27      505.40 feet to a point for corner marking an internal corner of said

1   *premises;*  
2   *THENCE with the east line of said premises, North 45°00'00" East,*  
3   *135.94 feet to a point for corner in said Denton Creek;*  
4   *THENCE with the south line of said premises and said creek as*  
5   *follows:*  
6       *North 24°24'00" West, 331.93 feet;*  
7       *North 47°17'00" West, 655.25 feet;*  
8       *South 69°27'00" West, 188.21 feet;*  
9       *North 52°23'00" West, 121.21 feet;*  
10      *North 16°37'00" East, 237.97 feet;*  
11      *North 58°06'00" West, 113.70 feet;*  
12      *North 90°00'00" West, 199.05 feet;*  
13      *South 26°23'00" West, 583.80 feet;*  
14      *North 71°42'00" West, 137.05 feet;*  
15      *North 38°17'00" West, 435.90 feet;*  
16      *South 17°03'00" West, 143.45 feet;*  
17      *North 72°49'00" West, 230.18 feet;*  
18      *North 66°25'00" West, 120.10 feet;*  
19      *North 02°24'00" West, 430.07 feet;*  
20      *North 49°09'00" West, 195.71 feet;*  
21      *South 58°07'00" West, 53.10 feet;*  
22      *North 86°47'00" West, 89.24 feet;*  
23      *South 21°48'00" West, 132.99 feet;*  
24      *South 37°08'00" West, 165.69 feet;*  
25      *South 20°40'00" West, 113.42 feet;*  
26      *South 85°00'00" West, 229.63 feet;*  
27      *South 14°54'00" East, 198.77 feet;*

1           South 70°59'00" West, 175.97 feet;  
2           North 64°46'06" West, 456.73 feet;  
3           North 70°03'37" West, 911.94 feet;  
4    THENCE departing said creek and with the west line of said premises,  
5    North 45°00'00" East, 2,775.00 feet to a point for corner marking an  
6    internal corner of said premises;  
7    THENCE with the west line of said premises, North 44°36'00" West,  
8    2,515.28 feet to a point for corner marking the northwest corner of  
9    said premises;  
10   THENCE with the west line of said premises, North 45°04'00" East,  
11   6,222.22 feet to a point for corner marking the northeast corner of  
12   said premises and being on said county line per deed;  
13   THENCE with the east line of said premises and said county line,  
14   South 00°56'02" West, 11,402.11 feet to the point of beginning and  
15   containing 755.414 acres of land.

16                   FIELD NOTES DENTON COUNTY

17   SITUATED in the State of Texas and County of Denton, being part of  
18   the W. G. McDaniel Survey, Abstract No. 809 and the R. R. Jowell  
19   Survey, Abstract No. 660 being part of tract as recorded in CC#  
20   2009-102747 of the Deed Records of Denton County, said premises  
21   being more particularly described as follows;  
22   BEGINNING at a point for corner marking the southeast corner of said  
23   premises and said tract;  
24   THENCE with the south line of said premises, South 85°55'00" West,  
25   6,846.94 feet to a point for corner marking the southwest corner of  
26   said premises and being on the Denton Wise county line per deed  
27   recorded in Volume 264, Page 508;

1    *THENCE with said county line and the west line of said premises,*  
2    *North 00°57'03" East, 11,402.11 feet to a point for corner marking*  
3    *the northwest corner of said premises;*  
4    *THENCE with the north line of said premises, South 89°48'00" East,*  
5    *4,626.11 feet to a point for corner marking the most northerly*  
6    *northeast corner of said premises;*  
7    *THENCE with the east line of said premises, South 00°15'00" West,*  
8    *5,963.06 feet to a point for corner marking an internal corner of*  
9    *said premises;*  
10   *THENCE with the north line of said premises, South 89°50'00" East,*  
11   *3,515.83 feet to a point for corner marking the most easterly*  
12   *northeast corner of said premises;*  
13   *THENCE with the east line of said premises, South 00°00'00" East,*  
14   *2,405.00 feet to a point for corner marking the most easterly*  
15   *southeast corner of said premises;*  
16   *THENCE with the south line of said premises, North 90°00'00" West,*  
17   *1,475.56 feet to a point for corner marking an internal corner of*  
18   *said premises;*  
19   *THENCE with the east line of said premises, South 00°00'00" East,*  
20   *2,518.61 feet to the point of beginning and containing 1,526.734*  
21   *acres of land.*

22            SECTION 3. (a) The legal notice of the intention to  
23 introduce this Act, setting forth the general substance of this  
24 Act, has been published as provided by law, and the notice and a  
25 copy of this Act have been furnished to all persons, agencies,  
26 officials, or entities to which they are required to be furnished  
27 under Section 59, Article XVI, Texas Constitution, and Chapter 313,

1 Government Code.

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

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

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

13 SECTION 4. (a) If this Act does not receive a two-thirds  
14 vote of all the members elected to each house, Subchapter C, Chapter  
15 8095, Special District Local Laws Code, as added by Section 1 of  
16 this Act, is amended by adding Section 8095.0307 to read as follows:

17 Sec. 8095.0307. NO EMINENT DOMAIN POWER. The district may  
18 not exercise the power of eminent domain.

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

22 SECTION 5. This Act takes effect September 1, 2019.