

1-1 By: Bell of Montgomery (Senate Sponsor - Kolkhorst) H.B. No. 3436
 1-2 (In the Senate - Received from the House May 17, 2021;
 1-3 May 17, 2021, read first time and referred to Committee on Local
 1-4 Government; May 21, 2021, reported favorably by the following
 1-5 vote: Yeas 7, Nays 0; May 21, 2021, 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	X			
1-16			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. 40; 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 7901 to read as follows:

1-26 CHAPTER 7901. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 40

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7901.0101. 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. 40.

1-35 Sec. 7901.0102. 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. 7901.0103. 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. 7901.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-43 temporary directors may not hold an election under Section
 1-44 7901.0103 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.

1-48 Sec. 7901.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-49 (a) The district is created to serve a public purpose and benefit.

1-50 (b) The district is created to accomplish the purposes of:

1-51 (1) a municipal utility district as provided by
 1-52 general law and Section 59, Article XVI, Texas Constitution; and

1-53 (2) Section 52, Article III, Texas Constitution, that
 1-54 relate to the construction, acquisition, improvement, operation,
 1-55 or maintenance of macadamized, graveled, or paved roads, or
 1-56 improvements, including storm drainage, in aid of those roads.

1-57 Sec. 7901.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-58 district is initially composed of the territory described by
 1-59 Section 2 of the Act enacting this chapter.

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

2-1 field notes or in copying the field notes in the legislative process
 2-2 does not affect the district's:
 2-3 (1) organization, existence, or validity;
 2-4 (2) right to issue any type of bond for the purposes
 2-5 for which the district is created or to pay the principal of and
 2-6 interest on a bond;
 2-7 (3) right to impose a tax; or
 2-8 (4) legality or operation.

2-9 SUBCHAPTER B. BOARD OF DIRECTORS

2-10 Sec. 7901.0201. GOVERNING BODY; TERMS. (a) The district is
 2-11 governed by a board of five elected directors.

2-12 (b) Except as provided by Section 7901.0202, directors
 2-13 serve staggered four-year terms.

2-14 Sec. 7901.0202. TEMPORARY DIRECTORS. (a) The temporary
 2-15 board consists of:

- 2-16 (1) Amy Hancock;
- 2-17 (2) Linda Schmidt;
- 2-18 (3) Grant Beehler;
- 2-19 (4) Rhonda Emerson; and
- 2-20 (5) Robin Ross.

2-21 (b) Temporary directors serve until the earlier of:

2-22 (1) the date permanent directors are elected under
 2-23 Section 7901.0103; or

2-24 (2) the fourth anniversary of the effective date of
 2-25 the Act enacting this chapter.

2-26 (c) If permanent directors have not been elected under
 2-27 Section 7901.0103 and the terms of the temporary directors have
 2-28 expired, successor temporary directors shall be appointed or
 2-29 reappointed as provided by Subsection (d) to serve terms that
 2-30 expire on the earlier of:

2-31 (1) the date permanent directors are elected under
 2-32 Section 7901.0103; or

2-33 (2) the fourth anniversary of the date of the
 2-34 appointment or reappointment.

2-35 (d) If Subsection (c) applies, the owner or owners of a
 2-36 majority of the assessed value of the real property in the district
 2-37 may submit a petition to the commission requesting that the
 2-38 commission appoint as successor temporary directors the five
 2-39 persons named in the petition. The commission shall appoint as
 2-40 successor temporary directors the five persons named in the
 2-41 petition.

2-42 SUBCHAPTER C. POWERS AND DUTIES

2-43 Sec. 7901.0301. GENERAL POWERS AND DUTIES. The district
 2-44 has the powers and duties necessary to accomplish the purposes for
 2-45 which the district is created.

2-46 Sec. 7901.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
 2-47 DUTIES. The district has the powers and duties provided by the
 2-48 general law of this state, including Chapters 49 and 54, Water Code,
 2-49 applicable to municipal utility districts created under Section 59,
 2-50 Article XVI, Texas Constitution.

2-51 Sec. 7901.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
 2-52 52, Article III, Texas Constitution, the district may design,
 2-53 acquire, construct, finance, issue bonds for, improve, operate,
 2-54 maintain, and convey to this state, a county, or a municipality for
 2-55 operation and maintenance macadamized, graveled, or paved roads, or
 2-56 improvements, including storm drainage, in aid of those roads.

2-57 Sec. 7901.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-58 road project must meet all applicable construction standards,
 2-59 zoning and subdivision requirements, and regulations of each
 2-60 municipality in whose corporate limits or extraterritorial
 2-61 jurisdiction the road project is located.

2-62 (b) If a road project is not located in the corporate limits
 2-63 or extraterritorial jurisdiction of a municipality, the road
 2-64 project must meet all applicable construction standards,
 2-65 subdivision requirements, and regulations of each county in which
 2-66 the road project is located.

2-67 (c) If the state will maintain and operate the road, the
 2-68 Texas Transportation Commission must approve the plans and
 2-69 specifications of the road project.

3-1 Sec. 7901.0305. COMPLIANCE WITH MUNICIPAL CONSENT
 3-2 ORDINANCE OR RESOLUTION. The district shall comply with all
 3-3 applicable requirements of any ordinance or resolution that is
 3-4 adopted under Section 54.016 or 54.0165, Water Code, and that
 3-5 consents to the creation of the district or to the inclusion of land
 3-6 in the district.

3-7 Sec. 7901.0306. DIVISION OF DISTRICT. (a) The district may
 3-8 be divided into two or more new districts only if the district:

- 3-9 (1) has no outstanding bonded debt; and
 3-10 (2) is not imposing ad valorem taxes.

3-11 (b) This chapter applies to any new district created by the
 3-12 division of the district, and a new district has all the powers and
 3-13 duties of the district.

3-14 (c) A new district created by the division of the district
 3-15 may not, at the time the new district is created, contain any land
 3-16 outside the area described by Section 2 of the Act enacting this
 3-17 chapter.

3-18 (d) The board, on its own motion or on receipt of a petition
 3-19 signed by the owner or owners of a majority of the assessed value of
 3-20 the real property in the district, may adopt an order dividing the
 3-21 district.

3-22 (e) The board may adopt an order dividing the district
 3-23 before or after the date the board holds an election under Section
 3-24 7901.0103 to confirm the district's creation.

3-25 (f) An order dividing the district shall:

- 3-26 (1) name each new district;
 3-27 (2) include the metes and bounds description of the
 3-28 territory of each new district;
 3-29 (3) appoint temporary directors for each new district;

3-30 and

- 3-31 (4) provide for the division of assets and liabilities
 3-32 between the new districts.

3-33 (g) On or before the 30th day after the date of adoption of
 3-34 an order dividing the district, the district shall file the order
 3-35 with the commission and record the order in the real property
 3-36 records of each county in which the district is located.

3-37 (h) Any new district created by the division of the district
 3-38 shall hold a confirmation and directors' election as required by
 3-39 Section 7901.0103. If the voters of a new district do not confirm
 3-40 the creation of the new district, the assets, obligations,
 3-41 territory, and governance of the new district revert to the
 3-42 original district.

3-43 (i) If the creation of the new district is confirmed, the
 3-44 new district shall provide the election date and results to the
 3-45 commission.

3-46 (j) Any new district created by the division of the district
 3-47 must hold an election as required by this chapter to obtain voter
 3-48 approval before the district may impose a maintenance tax or issue
 3-49 bonds payable wholly or partly from ad valorem taxes.

3-50 (k) Municipal consent to the creation of the district and to
 3-51 the inclusion of land in the district granted under Section
 3-52 7901.0104 acts as municipal consent to the creation of any new
 3-53 district created by the division of the district and to the
 3-54 inclusion of land in the new district.

3-55 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-56 Sec. 7901.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
 3-57 The district may issue, without an election, bonds and other
 3-58 obligations secured by:

- 3-59 (1) revenue other than ad valorem taxes; or
 3-60 (2) contract payments described by Section 7901.0403.

3-61 (b) The district must hold an election in the manner
 3-62 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-63 before the district may impose an ad valorem tax or issue bonds
 3-64 payable from ad valorem taxes.

3-65 (c) The district may not issue bonds payable from ad valorem
 3-66 taxes to finance a road project unless the issuance is approved by a
 3-67 vote of a two-thirds majority of the district voters voting at an
 3-68 election held for that purpose.

3-69 Sec. 7901.0402. OPERATION AND MAINTENANCE TAX. (a) If

4-1 authorized at an election held under Section 7901.0401, the
 4-2 district may impose an operation and maintenance tax on taxable
 4-3 property in the district in accordance with Section 49.107, Water
 4-4 Code.

4-5 (b) The board shall determine the tax rate. The rate may not
 4-6 exceed the rate approved at the election.

4-7 Sec. 7901.0403. CONTRACT TAXES. (a) In accordance with
 4-8 Section 49.108, Water Code, the district may impose a tax other than
 4-9 an operation and maintenance tax and use the revenue derived from
 4-10 the tax to make payments under a contract after the provisions of
 4-11 the contract have been approved by a majority of the district voters
 4-12 voting at an election held for that purpose.

4-13 (b) A contract approved by the district voters may contain a
 4-14 provision stating that the contract may be modified or amended by
 4-15 the board without further voter approval.

4-16 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

4-17 Sec. 7901.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 4-18 OBLIGATIONS. The district may issue bonds or other obligations
 4-19 payable wholly or partly from ad valorem taxes, impact fees,
 4-20 revenue, contract payments, grants, or other district money, or any
 4-21 combination of those sources, to pay for any authorized district
 4-22 purpose.

4-23 Sec. 7901.0502. TAXES FOR BONDS. At the time the district
 4-24 issues bonds payable wholly or partly from ad valorem taxes, the
 4-25 board shall provide for the annual imposition of a continuing
 4-26 direct ad valorem tax, without limit as to rate or amount, while all
 4-27 or part of the bonds are outstanding as required and in the manner
 4-28 provided by Sections 54.601 and 54.602, Water Code.

4-29 Sec. 7901.0503. BONDS FOR ROAD PROJECTS. At the time of
 4-30 issuance, the total principal amount of bonds or other obligations
 4-31 issued or incurred to finance road projects and payable from ad
 4-32 valorem taxes may not exceed one-fourth of the assessed value of the
 4-33 real property in the district.

4-34 SECTION 2. Waller County Municipal Utility District No. 40
 4-35 initially includes all the territory contained in the following
 4-36 area:

4-37 A METES & BOUNDS description of a certain 377.77 acre tract situated
 4-38 in the Nathan W. Bush Survey, Abstract No. 76 and B.B.B. & C.R.R.
 4-39 Co. Survey, Abstract No. 93 in Waller County, Texas being the
 4-40 remainder of a called 590.4 acre tract (remainder tract) conveyed
 4-41 by Special Warranty Deed to Sorsby Family Farm, LP recorded in
 4-42 Volume 895, Page 208 of the Deed Records of Waller County and all of
 4-43 a called 1 acre tract conveyed by Deed to J.B. Sorsby, Jr. recorded
 4-44 in Volume 202, Page 245 of the Deed Records of Waller County; said
 4-45 377.77 acre tract being more particularly described as follows with
 4-46 all bearings based on the Texas Coordinate System of 1983, South
 4-47 Central Zone (4204);

4-48 BEGINNING at a set 5/8-inch iron rod (with cap stamped
 4-49 "Jones|Carter") marking an easterly south corner of the herein
 4-50 described subject tract, being common with the southwest corner of
 4-51 a called 6.00 acre portion (Tract 1) of said remainder tract
 4-52 surveyed on equal date herewith and in the south line of said
 4-53 remainder tract and the occupied north right-of-way line of Cameron
 4-54 Road (Unknown Width);

4-55 THENCE South 87°22'02" West, along the common line of said remainder
 4-56 tract and said occupied north right-of-way line of Cameron Road,
 4-57 7964.88 feet to a set 5/8-inch iron rod (with cap stamped
 4-58 "Jones|Carter") marking a westerly south corner of the herein
 4-59 described subject tract, being common with the southeast corner of
 4-60 a called 4.00 acre portion (Tract 2) of said remainder tract
 4-61 surveyed on equal date herewith and in the south line of said
 4-62 remainder tract and the occupied north right-of-way line of Cameron
 4-63 Road;

4-64 THENCE North 02°19'35" West, along the east line of said Tract 2,
 4-65 418.00 feet to a set 5/8-inch iron rod (with cap stamped
 4-66 "Jones|Carter") marking an interior southwest corner of the herein
 4-67 described subject tract, being common with the northeast corner of
 4-68 said Tract 2;

4-69 THENCE South 87°22'02" West, along the north line of said Tract 2,

5-1 416.70 feet to a set 5/8-inch iron rod (with cap stamped
5-2 "Jones|Carter") marking a southerly west corner of the herein
5-3 described subject tract, being common with the northwest corner of
5-4 said Tract 2 and in the west line of aforementioned remainder tract
5-5 and occupied east right-of-way line of Flukinger Road (Unknown
5-6 Width);
5-7 THENCE North 02°17'06" West, along the common line of said remainder
5-8 tract and said occupied east right-of-way line of Flukinger Road,
5-9 637.93 feet to a found 8-inch corner fence post marking a northwest
5-10 corner of the herein described subject tract, being common with a
5-11 northwest corner of said remainder tract, the southwest corner of a
5-12 called 110.00 acre tract conveyed to Prairie View A&M University
5-13 (Waller County Central Appraisal District, no deed of record
5-14 found);
5-15 THENCE along the common line of said remainder tract and said 110.00
5-16 acre tract, the following two (2) courses and distances:
5-17 (1) North 87°09'53" East, 1849.82 feet to a found 1/2-inch
5-18 iron pipe;
5-19 (2) North 07°12'03" East, 1192.07 feet to a found 6-inch
5-20 cedar fence post marking a northwest corner of the herein described
5-21 subject tract, being common with the northwest corner of said
5-22 remainder tract, the southwest corner of the remainder of a called
5-23 100 acre tract conveyed by Deed of Gift to Alice Sorsby McGuffie in
5-24 Volume 1037, Page 285 Official Public Records of Waller County and
5-25 Deed of Gift to William Bascom Sorsby recorded in Volume 1037, Page
5-26 289 of the Official Public Records of Waller County and in the east
5-27 line of said 110.00 acre tract;
5-28 THENCE North 86°27'47" East, along the common line of said remainder
5-29 tract and said remainder of a 100 acre tract, passing at 5137.90
5-30 feet, 0.28 feet to the right a found 3/8-inch iron rod, continuing
5-31 in all a total distance of 5970.18 feet to a point-for-corner
5-32 marking the northeast corner of the herein described subject tract,
5-33 being common with the northeast corner of said remainder tract, the
5-34 southeast corner of a called 7.399 acre tract conveyed by Partition
5-35 Deed to Alice Sorsby McGuffie recorded in Volume 334, Page 585 of
5-36 the Deed Records of Waller County and in the west right-of-way line
5-37 of F.M. Highway 362 (called 80-Foot Wide, State Project
5-38 No. R-523-2-3, Volume 117, Page 262 Deed Records of Waller County)
5-39 and from which a found 3/8-inch iron rod bears North 70°16'07" East,
5-40 0.87 feet;
5-41 THENCE South 22°03'23" East, along the common line of said remainder
5-42 tract and said west right-of-way line of F.M. Highway 362, 1845.75
5-43 feet to a set 5/8-inch iron rod (with cap stamped "Jones|Carter")
5-44 marking a southerly east corner of the herein described subject
5-45 tract, being common with the northeast corner of aforementioned
5-46 Tract 1 and being in the east line of said remainder tract and said
5-47 west right-of-way line of F.M. Highway 362;
5-48 THENCE South 87°13'41" West, along the north line of said Tract 1,
5-49 416.63 feet to a set 5/8-inch iron rod (with cap stamped
5-50 "Jones|Carter") marking an interior southeast corner of the herein
5-51 described subject tract, being common with the northwest corner of
5-52 said Tract 1;
5-53 THENCE South 17°24'25" East, 609.66 feet to the POINT OF BEGINNING,
5-54 CONTAINING 377.77 acres of land in Waller County, Texas as shown on
5-55 Dwg No. 15061 V2 filed in the offices of Jones|Carter in College
5-56 Station, Texas.

5-57 SECTION 3. (a) The legal notice of the intention to
5-58 introduce this Act, setting forth the general substance of this
5-59 Act, has been published as provided by law, and the notice and a
5-60 copy of this Act have been furnished to all persons, agencies,
5-61 officials, or entities to which they are required to be furnished
5-62 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-63 Government Code.

5-64 (b) The governor, one of the required recipients, has
5-65 submitted the notice and Act to the Texas Commission on
5-66 Environmental Quality.

5-67 (c) The Texas Commission on Environmental Quality has filed
5-68 its recommendations relating to this Act with the governor, the
5-69 lieutenant governor, and the speaker of the house of

6-1 representatives within the required time.

6-2 (d) All requirements of the constitution and laws of this
6-3 state and the rules and procedures of the legislature with respect
6-4 to the notice, introduction, and passage of this Act are fulfilled
6-5 and accomplished.

6-6 SECTION 4. (a) If this Act does not receive a two-thirds
6-7 vote of all the members elected to each house, Subchapter C, Chapter
6-8 7901, Special District Local Laws Code, as added by Section 1 of
6-9 this Act, is amended by adding Section 7901.0307 to read as follows:

6-10 Sec. 7901.0307. NO EMINENT DOMAIN POWER. The district may
6-11 not exercise the power of eminent domain.

6-12 (b) This section is not intended to be an expression of a
6-13 legislative interpretation of the requirements of Section 17(c),
6-14 Article I, Texas Constitution.

6-15 SECTION 5. This Act takes effect immediately if it receives
6-16 a vote of two-thirds of all the members elected to each house, as
6-17 provided by Section 39, Article III, Texas Constitution. If this
6-18 Act does not receive the vote necessary for immediate effect, this
6-19 Act takes effect September 1, 2021.

6-20

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