

By: Aycock

H.B. No. 4159

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Bell County Municipal Utility District No. 3; 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 7936 to read as follows:

CHAPTER 7936. BELL COUNTY MUNICIPAL UTILITY DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7936.001. 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 Bell County Municipal Utility District No. 3.

Sec. 7936.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7936.003. CONFIRMATION AND DIRECTORS' 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. 7936.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 7936.003
3 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.

7 Sec. 7936.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
8 The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of:
10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas Constitution; and
12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 7936.006. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

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

23 (1) organization, existence, or validity;
24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;
27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 7936.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 7936.052, directors serve
6 staggered four-year terms.

7 Sec. 7936.052. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

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

15 (1) the date permanent directors are elected under
16 Section 7936.003; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 7936.003 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 7936.003; or

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

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.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 7936.101. GENERAL POWERS AND DUTIES. The district has
10 the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 7936.102. 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. 7936.103. 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.

23 Sec. 7936.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
24 project must meet all applicable construction standards, zoning and
25 subdivision requirements, and regulations of each municipality in
26 whose corporate limits or extraterritorial jurisdiction the road
27 project is located.

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. 7936.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
10 OR RESOLUTION. The district shall comply with all applicable
11 requirements of any ordinance or resolution that is adopted under
12 Section 54.016 or 54.0165, Water Code, and that consents to the
13 creation of the district or to the inclusion of land in the
14 district.

15 Sec. 7936.106. DIVISION OF DISTRICT. (a) The district may
16 be divided into two or more districts only if:

17 (1) the district has no outstanding bonded debt;
18 (2) the district is not imposing ad valorem taxes; and
19 (3) the requirements of Subsection (i), as applicable,
20 are satisfied.

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

24 (c) A new district created by the division of the district
25 may not, at the time the new district is created, contain any land
26 outside the area described by Section 2 of the Act creating this
27 chapter.

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

5 (e) The board may adopt an order dividing the district
6 before or after the date the board holds an election under Section
7 7936.003 to confirm the district's creation.

8 (f) An order dividing the district shall:

9 (1) name each new district;

10 (2) include the metes and bounds of each new district;

11 (3) appoint temporary directors for each new district;

12 and

13 (4) provide for the division of assets and liabilities
14 between the district and each new district.

15 (g) On or before the 30th day after the date of adoption of
16 an order dividing the district, the district shall file the order
17 with the Texas Commission on Environmental Quality and record the
18 order in the real property records of each county in which the
19 district is located.

20 (h) A new district created by the division of the district
21 shall hold a confirmation and directors' election as required by
22 Section 7936.003.

23 (i) If the district is located wholly or partly in the
24 corporate limits or the extraterritorial jurisdiction of a
25 municipality, the district may not divide under this section unless
26 the municipality by resolution or ordinance consents to the
27 division of the district. If the district is not located wholly or

1 partly in the corporate limits or extraterritorial jurisdiction of
2 a municipality, the district may not divide under this section
3 unless the commissioners court of each county in which the district
4 is wholly or partly located first adopts a resolution or order in
5 support of the division of the district.

6 (j) 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. 7936.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
12 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 7936.153.

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. 7936.152. OPERATION AND MAINTENANCE TAX. (a) If
25 authorized at an election held under Section 7936.151, the district
26 may impose an operation and maintenance tax on taxable property in
27 the district in accordance with Section [49.107](#), Water Code.

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

3 Sec. 7936.153. CONTRACT TAXES. (a) In accordance with
4 Section 49.108, Water Code, the district may impose a tax other than
5 an operation and maintenance tax and use the revenue derived from
6 the tax to make payments under a contract after the provisions of
7 the contract have been approved by a majority of the district voters
8 voting at an election held for that purpose.

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

12 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

13 Sec. 7936.201. AUTHORITY TO ISSUE BONDS AND OTHER
14 OBLIGATIONS. The district may issue bonds or other obligations
15 payable wholly or partly from ad valorem taxes, impact fees,
16 revenue, contract payments, grants, or other district money, or any
17 combination of those sources, to pay for any authorized district
18 purpose.

19 Sec. 7936.202. TAXES FOR BONDS. At the time the district
20 issues bonds payable wholly or partly from ad valorem taxes, the
21 board shall provide for the annual imposition of a continuing
22 direct ad valorem tax, without limit as to rate or amount, while all
23 or part of the bonds are outstanding as required and in the manner
24 provided by Sections 54.601 and 54.602, Water Code.

25 Sec. 7936.203. BONDS FOR ROAD PROJECTS. At the time of
26 issuance, the total principal amount of bonds or other obligations
27 issued or incurred to finance road projects and payable from ad

1 valorem taxes may not exceed one-fourth of the assessed value of the
2 real property in the district.

3 SECTION 2. The Bell County Municipal Utility District No. 3
4 initially includes all the territory contained in the following
5 area:

6 1221.63 ACRES, situated in the J. GREENWOOD SURVEY, ABSTRACT
7 367, the D. F. HAIR SURVEY, ABSTRACT 1088, the CYNTHIA GILBERT
8 SURVEY, ABSTRACT 346, the J. KIZZIER SURVEY, ABSTRACT 496, the W. S.
9 BLACK SURVEY, ABSTRACT 128, and the PRESTON CONLEY SURVEY, ABSTRACT
10 213, Bell County, Texas, embracing all of a called 425.18 Acre tract
11 conveyed as Tract One, all of a called 382.61 Acre tract, conveyed
12 as Tract Two, and all of a called 413.72 Acre tract, conveyed as
13 Tract Three, to Whitis Land Investments, Ltd. in Document
14 No. 2013-00000874, Official Public Records of Real Property, Bell
15 County, Texas, and being more particularly described as follows:

16 BEGINNING at a point at the northwest corner of said 413.73
17 Acre tract, being the northeast corner of a portion of called 1748.4
18 Acres conveyed as the Sixth Tract to Solana Ranch Company in Volume
19 621, Page 624, Deed Records of Bell County, Texas, and being on the
20 south line of F. M. 2843, for the northwest corner of the herein
21 described tract;

22 THENCE, in an easterly direction, with the south line of said
23 F. M. 2843, S 71° 26' 42" E - 905.35', to a point at the northwest
24 corner of a called 4 Acre tract conveyed to David R. Cummings and
25 wife, Cari S. Cummings in Volume 2972, Page 399, Official Public
26 Records of Real Property, Bell County, Texas;

27 THENCE, in a southerly direction, with the west line of said 4

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1 Acre tract, S 09° 05' 25" W - 569.33', to a point at the southwest
2 corner of said 4 Acre tract, for an interior corner of the herein
3 described tract;

4 THENCE, in an easterly direction, with the south line of said
5 4 Acre tract and the south line of a tract conveyed to Michael L.
6 Shobe and wife, Susan C. Shobe in Volume 4849, Page 517, Official
7 Public Records of Real Property, Bell County, Texas, N 87° 55' 33" E
8 - 1018.04', to a point for an interior corner of the herein
9 described tract;

10 THENCE, in a northerly direction, with the east line of said
11 Shobe tract, N 04° 13' 09" W - 386.78', to a point at the northeast
12 corner of said Shobe tract, being on the south line of said F. M.
13 2843;

14 THENCE, in an easterly direction, with the south line of said
15 F. M. 2843, S 88° 36' 25" E - 64.47', to a point at the northwest
16 corner of a called 21.5 Acre tract conveyed to Bradley Leo Buckley
17 and Susan Carol in Volume 5671, Page 475, Official Public Records of
18 Real Property, Bell County, Texas;

19 THENCE, in a southerly direction, with the west line of said
20 21.5 Acre tract, S 04° 25' 29" E - 876.99', to a point at the
21 southwest corner of said 21.5 Acre tract, for an interior corner of
22 the herein described tract;

23 THENCE, in an easterly direction, with the south line of said
24 21.5 Acre tract, the following calls:

- 25 1. N 76° 16' 53" E - 169.62', a point,
26 2. N 80° 44' 30" E - 216.92', a point,
27 3. N 81° 53' 49" E - 76.48', a point,

4. N 85° 10' 57" E - 140.54', a point,
5. N 86° 49' 14" E - 108.17', a point,
6. S 84° 56' 18" E - 60.02', a point,
7. S 71° 35' 53" E - 123.69', a point,
8. S 64° 12' 49" E - 100.03', a point,
9. S 54° 37' 38" E - 29.23', a point,
10. S 30° 56' 02" W - 59.70', a point, and
11. S 87° 16' 17" E - 159.70', to a point;

THENCE, in a northeasterly direction, with the south line of said 21.5 Acre tract, and the south line of a called 12.35 Acre tract conveyed to Elmer L. Edens and wife, Susan Edens in Volume 2235, Page 345, Deed Records of Bell County, Texas, N 55° 00' 45" E - 1135.09', to a point at the southeast corner of said 12.35 Acre tract, for an interior corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said 12.35 Acre tract, N 19° 39' 56" W - 260.68', to a point on the south line of said F. M. 2843;

THENCE, in an easterly direction, with the south line of said F. M. 2843, the following calls:

1. S 89° 03' 11" E - 103.73', a point,
2. S 35° 21' 24" E - 151.15', a point,
3. N 79° 27' 44" E - 110.78', a point,
4. N 02° 29' 25" E - 69.54', a point,
5. S 88° 57' 06" E - 529.69', a point, and
6. N 79° 03' 04" E - 182.00', to a point at the beginning of a curve to the left;

THENCE, continuing in said easterly direction, with said

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1 curve to the left; having a radius of 1960.00', a delta angle of 41°
2 50' 25", and a long chord which bears N 65° 03' 32" E - 1399.70'; an
3 arc length of 1431.29', to a point;

4 THENCE, in a northeasterly direction, continuing with the
5 south line of said F. M. 2843, N 44° 05' 40" E - 973.61', to a point
6 at a cut-back corner on the west line of Triangle Road;

7 THENCE, in an easterly direction, with said cut-back, S 85°
8 29' 15" E - 78.40', to a point on the west line of said Triangle
9 Road, for the northeast corner of the herein described tract;

10 THENCE, in a southerly direction, with the west line of said
11 Triangle Road, S 21° 45' 59" E - 836.91', a point, and S 29° 42' 54" E
12 - 333.97', to a point at the northeast corner of a called 0.54 Acre
13 tract conveyed to Claude F. Ray, Jr. in Volume 1855, Page 67, Deed
14 Records of Bell County, Texas;

15 THENCE, in a westerly direction, with the north line of said
16 0.54 Acre tract, S 69° 23' 34" W - 122.70', to a point at the
17 northwest corner of said 0.54 Acre tract, for an interior corner of
18 the herein described tract;

19 THENCE, in a southerly direction, with the west line of said
20 0.54 Acre tract, S 20° 00' 24" E - 193.13', to a point at the
21 southwest corner of said 0.54 Acre tract, for an interior corner of
22 the herein described tract;

23 THENCE, in an easterly direction, with the south line of said
24 0.54 Acre tract, N 68° 36' 05" E - 120.11', to a point on the west
25 line of said Triangle Road;

26 THENCE, in a southerly direction, with the west line of said
27 Triangle Road, S 20° 53' 53" E - 1698.33', to a point at the

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1 southeast corner of said 413.72 Acre tract, being the north line of
2 said 382.61 Acre tract, for an interior corner of the herein
3 described tract;

4 THENCE, in an easterly direction, N 68° 36' 05" E - 120.11', to
5 a point in the approximate center of said Triangle Road, being the
6 northeast corner of said 382.61 Acre tract;

7 THENCE, in a southerly direction, with the east line of said
8 382.61 Acre tract, S 21° 58' 20" E - 4514.30', to a point at the
9 southeast corner of said 382.61 Acre tract, being in the
10 approximate center of Kuykendall Branch Road, for the easternmost
11 southeast corner of the herein described tract;

12 THENCE, in a westerly direction, with the approximate center
13 of said Kuykendall Branch Road, S 68° 27' 25" W - 3105.71', to a
14 point at the southernmost southwest corner of said 382.61 Acre
15 tract, being on the east line of said 425.18 Acre tract, same being
16 the northernmost northwest corner of a called 8.15 Acre tract
17 conveyed to Solana Ranch Company in Volume 1009, Page 706, Deed
18 Records of Bell County, Texas, for an interior corner of the herein
19 described tract;

20 THENCE, in a southerly direction, with the northwest line of
21 said 8.15 Acre tract, S 08° 56' 29" E - 1684.60', to a point for the
22 southernmost southeast corner of the herein described tract;

23 THENCE, in a westerly direction, with the boundary of said
24 8.15 Acre tract, S 69° 13' 10" W - 1090.84', to a point at the
25 southeast corner of the remainder of a called 482.6 Acre tract
26 conveyed to Betty Kirkpatrick in Document No. 2009-00014096,
27 Official Public Records of Real Property, Bell County, Texas (being

described in Volume 2960, Page 8), for the southernmost southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said remainder tract, N 15° 31' 05" W - 1635.44', to a point, being the northeast corner of said remainder tract, for an interior corner of the herein described tract;

THENCE, in a westerly direction, with the north line of said remainder tract and the boundary line of said Solana Ranch Company Sixth Tract, S 69° 06' 56" W - 2590.25', to a point, being an interior corner of said Sixth tract, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the eastern line of said Solana Ranch Company Sixth Tract, same being the west line of said 425.18 Acre tract, N 20° 40' 42" W - 3015.90', to a point at the westernmost southwest corner of said 413.72 Acre tract;

THENCE, continuing in said northerly direction, with the east line of said Solana Ranch Company Sixth tract, same being the west line of said 413.72 Acre tract, the following calls:

1. N 26° 54' 27" W - 315.49', a point,
2. N 19° 45' 15" W - 1314.07', a point,
3. N 20° 35' 30" W - 517.20', a point,
4. N 12° 20' 23" W - 253.30', a point,
5. N 12° 44' 27" W - 647.98', a point,
6. N 22° 45' 46" W - 470.18', a point,
7. N 22° 14' 51" W - 131.75', a point,
8. N 11° 43' 24" W - 766.89', a point,
9. N 15° 10' 16" W - 345.67', a point,

1 10. N 87° 29' 52" W - 143.74', a point,
2 11. N 20° 09' 35" W - 211.32', a point,
3 12. N 31° 40' 34" W - 144.51', a point, and
4 13. N 22° 09' 15" W - 1161.69', to the POINT OF
5 BEGINNING and containing 1221.63 Acres of Land.

6 SECTION 3. (a) The legal notice of the intention to
7 introduce this Act, setting forth the general substance of this
8 Act, has been published as provided by law, and the notice and a
9 copy of this Act have been furnished to all persons, agencies,
10 officials, or entities to which they are required to be furnished
11 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
12 Government Code.

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

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

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

24 SECTION 4. (a) If this Act does not receive a two-thirds
25 vote of all the members elected to each house, Subchapter C, Chapter
26 7936, Special District Local Laws Code, as added by Section 1 of
27 this Act, is amended by adding Section 7936.107 to read as follows:

1 Sec. 7936.107. NO EMINENT DOMAIN POWER. The district may
2 not exercise the power of eminent domain.

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

6 SECTION 5. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2015.