

By: Creighton

S.B. No. 443

A BILL TO BE ENTITLED

AN ACT

relating to the Rayford Road Municipal Utility District.

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

SECTION 1. Chapter 145, Acts of the 61st Legislature, Regular Session, 1969, is amended by amending Sections 5, 7, 9, 10, 11, 12, 15, and 17 to read as follows:

Sec. 5. The district shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and functions conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to municipal utility ~~[water control and improvement]~~ districts created under authority of Article XVI, Section 59, Constitution of Texas, including Chapters 49 and 54, Water Code ~~[without limitation those conferred by Chapter 3A, Title 128, Vernon's Texas Civil Statutes]~~; but to the extent that the provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act.

Not by way of limitation, the district shall have and is hereby expressly granted the following rights, powers, privileges and functions:

(a) The power and authority to make, purchase, construct, lease, or otherwise acquire property, works, facilities and

1 improvements (whether previously existing or to be made,  
2 constructed or acquired) within or without the boundaries of the  
3 district necessary to carry out the powers and authority granted by  
4 this Act and the general laws.

5 (b) The right, power and authority to enter into contracts,  
6 of not exceeding 40 years duration with persons, corporations,  
7 public or private, municipal corporations, political subdivisions  
8 of the State of Texas, and others, on such terms and conditions as  
9 the board of directors may deem desirable, fair and advantageous  
10 for:

11 (1) the purchase and sale of water, or either;

12 (2) the transportation, treatment and disposal of its  
13 domestic, industrial or communal wastes or the transportation,  
14 treatment and disposal of domestic, industrial or communal wastes  
15 of others;

16 (3) the continuing and orderly development of the  
17 lands and property within the district through the purchase,  
18 construction or installation of facilities, works or improvements  
19 which the district may otherwise be empowered and authorized to do  
20 or perform so that, to the greatest extent reasonably possible,  
21 considering sound engineering and economic practices, all of such  
22 lands and property may be placed in a position to ultimately receive  
23 the services of such facilities, works or improvements; and

24 (4) the performance of any of the rights or powers  
25 granted in this Act and the general laws relating to municipal  
26 utility [~~water control and improvement~~] districts.

27 The rights, powers, privileges, authority and functions

1 herein granted to the district shall be subject to the continuing  
2 right of supervision of the state, to be exercised by and through  
3 the Texas Commission on Environmental Quality [~~Water Rights~~  
4 ~~Commission~~].

5       The powers and duties conferred on the district are granted  
6 subject to the policy of the state to encourage the development and  
7 use of integrated area-wide waste collection, treatment and  
8 disposal systems to serve the waste disposal needs of the citizens  
9 of the state, it being an objective of the policy to avoid the  
10 economic burden to the people and the impact on the quality of the  
11 waters in the state which result from the construction and  
12 operation of numerous small waste collection, treatment and  
13 disposal facilities to serve an area when an integrated area-wide  
14 waste collection, treatment and disposal system for the area can be  
15 reasonably provided.

16       Sec. 7. It shall not be necessary for the board of directors  
17 to call or hold a hearing on the exclusions of land or other  
18 property from the district[~~, provided, however, that the board~~  
19 ~~shall hold such hearing upon the written petition of any landowner~~  
20 ~~or other property owner within the district filed with the~~  
21 ~~secretary of the board prior to the calling of the first bond~~  
22 ~~election for the district. The board may act on said petition in~~  
23 ~~the same manner that it may act on a petition for the addition of~~  
24 ~~land under Article 7880-75, Vernon's Texas Civil Statutes, and no~~  
25 ~~notice of hearing shall be required~~]. The board on its own motion  
26 may call and hold an exclusions hearing or hearings in the manner  
27 provided by the general law.

1           Sec. 9. Land may be added to or annexed to the district in  
 2 the manner now provided by Chapters 49 and 54, Water Code [~~Chapter~~  
 3 ~~3A, Title 128, Vernon's Texas Civil Statutes, as amended~~];  
 4 provided, however, that the board of directors may require the  
 5 petitioners, if land is being added in the manner provided by  
 6 Section 49.301, Water Code [~~Article 7880-75, Vernon's Texas Civil~~  
 7 ~~Statutes~~], to assume their pro rata share of the voted but unissued  
 8 bonds of the district and authorize the board to levy a tax on their  
 9 property in payment for such unissued bonds, when issued, or if land  
 10 is being annexed in the manner provided by Section 49.302, Water  
 11 Code [~~Article 7880-75b, Vernon's Texas Civil Statutes~~], the board  
 12 may also submit a proposition to the property taxpaying voters of  
 13 the area to be annexed on the question of the assumption by the area  
 14 to be annexed of its part of the tax or tax-revenue bonds of the  
 15 district theretofore voted but not yet issued or sold and the levy  
 16 of an ad valorem tax on all taxable property within the area to be  
 17 annexed along with the tax in the rest of the district for the  
 18 payment thereof. If the petitioners consent or if the election  
 19 results favorably, the district shall be authorized to issue its  
 20 voted but unissued tax or tax-revenue bonds even though the  
 21 boundaries of the district have been changed since the voting or  
 22 authorization of such bonds.

23           Sec. 10. All powers of the district shall be exercised by a  
 24 board of five directors. Each director shall serve for his term of  
 25 office as herein provided, and thereafter until his successor shall  
 26 be elected or appointed and qualified. Each director shall qualify  
 27 by subscribing to the Constitutional oath of office and giving bond

1 in the amount of \$5,000 for the faithful performance of his duties.  
2 The cost of such bond shall be paid by the district. Such bond shall  
3 be approved by the county judge and filed in the office of the  
4 county clerk within which the district is located. The bonds of  
5 directors elected or appointed after the directors named below  
6 shall be approved by the district's board of directors and shall be  
7 recorded in a record kept for that purpose in the office of the  
8 district. Immediately after this Act becomes effective, the  
9 following named persons shall be the directors of the district and  
10 shall constitute the board of directors of the district:

11 Charles H. Reid  
12 William W. Bartlett  
13 Henry E. Randle  
14 Jack K. Leeka  
15 Vira Ann Harris

16 Said persons shall file their bonds as soon as practicable after the  
17 effective date of this Act and shall otherwise be fully qualified to  
18 serve as director prior to the first meeting of the board of  
19 directors. All vacancies in the office of director shall be filled  
20 in the manner provided by Section 49.105, Water Code [~~Article~~  
21 ~~7880-38, Vernon's Texas Civil Statutes~~]; provided, however, if at  
22 any time the number of qualified directors shall be less than three  
23 because of the failure or refusal of one or more directors to  
24 qualify or serve, or because of his or their death or  
25 incapacitation, or for any other reason, then the county judge of  
26 the county in which the district is located shall appoint the  
27 necessary number of directors to fill all vacancies on the board.

1 The directors named above or their duly appointed successor or  
2 successors shall serve until the second Tuesday in January, 1971.  
3 Succeeding directors shall be elected or appointed and shall serve  
4 for the term and in the manner provided by Section 49.103, Water  
5 Code [~~Article 7880-37, Vernon's Texas Civil Statutes~~]. Three  
6 directors shall constitute a quorum of any meeting, and a  
7 concurrence of three shall be sufficient in all matters pertaining  
8 to the business of the district including the letting of  
9 construction contracts and the drawing of warrants in payment for  
10 construction work, the purchase of existing facilities, and matters  
11 relating to construction work. The board shall select from its  
12 number a president, vice president, secretary and such other  
13 officers as in the judgment of the board is necessary. The  
14 president may execute all contracts, construction or otherwise,  
15 entered into by the board of directors on behalf of the district.  
16 The vice president shall perform all duties and exercise all power  
17 conferred by this Act or the general law upon the president when the  
18 president is absent or fails or declines to act. Any order adopted  
19 or other action taken at a meeting of the board of directors at  
20 which the president is absent may be signed by the vice president,  
21 or the board may authorize the president to sign such order or other  
22 action. The treasurer may be appointed by the board, and shall give  
23 bond in such amount as may be required by the board and conditioned  
24 that he or it will faithfully account for all money which shall come  
25 into his or its custody as treasurer of the district.

26 Sec. 11. The district shall comply with the requirements of  
27 Sections 49.181 and 49.182, Water Code [~~Article 7880-139, Vernon's~~

~~Texas Civil Statutes as it presently exists or as it may be hereafter amended].~~

Sec. 12. The district is hereby authorized to issue its negotiable tax bonds, revenue bonds, or tax and revenue bonds to provide funds for any or all of the purposes set out or incorporated by reference herein, including the acquisition of land therefor, and said bonds shall be issued in the manner provided and as authorized by Chapters 49 and 54, Water Code ~~[Article 7880-90a, Vernon's Texas Civil Statutes and Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended]~~, provided, however, that bonds payable solely from net revenues may be issued by resolution or order of the board of directors and no election therefor shall be necessary.

The bonds issued hereunder may be payable from all or any designated part or parts of the revenues of the district's properties and facilities or under specific contracts, as may be provided in the orders or resolutions authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of Chapters 49 and 54, Water Code ~~[said Chapter 3A of Title 128, Vernon's Texas Civil Statutes, as presently or hereafter amended]~~, shall apply to all bonds issued under the provisions of this Act (the provisions of this Act to govern and take precedence in the event of any such inconsistency or conflict).

Such bonds, within the discretion of the board of directors, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the district, and

1 franchises, easements, water rights and appropriation permits,  
 2 leases, and contracts and all rights appurtenant to such  
 3 properties, vesting in the trustee power to sell such properties  
 4 for payment of the indebtedness, power to operate the properties  
 5 and all other powers and authority for the further security of the  
 6 bonds. Such trust indenture, regardless of the existence of the  
 7 deed of trust or mortgage lien on the properties, may contain  
 8 provisions prescribed by the board of directors for the security of  
 9 the bonds and the preservation of the trust estate, and may make  
 10 provisions for amendment or modification thereof and the issuance  
 11 of bonds to replace lost or mutilated bonds, and may condition the  
 12 right to expend district money or sell district property upon  
 13 approval of a registered professional engineer selected as provided  
 14 therein and may make provisions for investment of funds of the  
 15 district. Any purchaser under a sale under the deed of trust or  
 16 mortgage lien, where one is given, shall be absolute owner of the  
 17 properties, facilities and rights so purchased and shall have the  
 18 right to maintain and operate same.

19       In the orders or resolutions authorizing the issuance of any  
 20 revenue, tax-revenue, revenue refunding, or tax-revenue refunding  
 21 bonds authorized hereunder, the district's board of directors may  
 22 provide for the flow of funds, the establishment and maintenance of  
 23 the interest and sinking fund or funds, reserve fund or funds, and  
 24 other funds, and may make additional covenants with respect to the  
 25 bonds and the pledged revenues and the operation and maintenance of  
 26 those improvements and facilities (the revenues of which are  
 27 pledged), including provisions for the operation or for the leasing



1 of all or any part of said improvements and facilities and the use  
2 or pledge of moneys derived from such operation contracts and  
3 leases, as such board may deem appropriate. Such orders or  
4 resolutions may also prohibit the further issuance of bonds or  
5 other obligations payable from the pledged revenues, or may reserve  
6 the right to issue additional bonds to be secured by a pledge of and  
7 payable from said revenues on a parity with, or subordinate to, the  
8 lien and pledge in support of the bonds being issued, subject to  
9 such conditions as are set forth in such orders or resolutions.  
10 Such orders or resolutions may contain other provisions and  
11 covenants, as the district's board may determine, not prohibited by  
12 the Constitution of Texas or by this Act, and said board may adopt  
13 and cause to be executed any other proceedings or instruments  
14 necessary and/or convenient in the issuance of any such bonds.

15 From the proceeds of sale of any bonds issued hereunder, the  
16 district may appropriate or set aside out of the bond proceeds an  
17 amount for the payment of interest, administrative and operating  
18 expenses expected to accrue during the period of construction (such  
19 period not to exceed three years), as may be provided in the bond  
20 orders or resolutions, and an amount necessary to pay all expenses  
21 incurred and to be incurred in the issuance, sale and delivery of  
22 the bonds. Moneys in the interest and sinking fund or funds and the  
23 reserve fund or funds, and in the other fund or funds established or  
24 provided for in the bond orders or resolutions may be invested in  
25 such manner and in such securities as may be provided in the bond  
26 order or orders or may be placed on interest-bearing time deposit.  
27 Until such time as the bond proceeds are needed to carry out the

1 bond purpose, such proceeds may be invested in securities of the  
2 United States Government or any agency thereof or may be placed on  
3 interest-bearing time deposit, either or both. Any such revenue  
4 bonds, tax-revenue, revenue refunding bonds, or tax-revenue  
5 refunding bonds hereinafter mentioned may be registrable as to  
6 principal, or as to both principal and interest.

7 By orders or resolutions adopted by its board of directors,  
8 said district shall have the power and authority to issue revenue  
9 refunding bonds or tax-revenue refunding bonds to refund revenue  
10 bonds or tax-revenue bonds (either original bonds or refunding  
11 bonds) theretofore issued by such district. Said refunding bonds  
12 shall be approved by the attorney general as in the case of original  
13 bonds, and shall be registered by the comptroller of public  
14 accounts upon the surrender and cancellation of the bonds to be  
15 refunded, but in lieu thereof, the orders or resolutions  
16 authorizing their issuance may provide that they shall be sold and  
17 the proceeds thereof deposited in the place or places where the  
18 underlying bonds are payable, in which case the refunding bonds may  
19 be issued provided an amount sufficient to pay the interest and  
20 principal on the underlying bonds to their maturity dates, or to  
21 their option dates if said bonds have been duly called for payment  
22 prior to maturity according to their terms, has been so deposited in  
23 the place or places where said underlying bonds are payable, and the  
24 comptroller of public accounts shall register them without the  
25 surrender and cancellation of the underlying bonds.

26 After any bonds have been authorized by the district  
27 hereunder, such bonds and the record relating to their issuance

1 shall be submitted to the Attorney General of the State of Texas for  
2 his examination as to the validity thereof, and after said attorney  
3 general has approved the same, such bonds shall be registered by the  
4 Comptroller of Public Accounts of the State of Texas. When such  
5 bonds have been approved by the attorney general, registered by the  
6 comptroller of public accounts, and delivered to the purchasers,  
7 they shall thereafter be incontestable except for forgery or fraud.  
8 When any bonds recite that they are secured partially or otherwise  
9 by a pledge of the proceeds of a contract or contracts made between  
10 the district and another party or parties (private or public) a copy  
11 of such contract or contracts and the proceedings authorizing the  
12 same may or may not be submitted to the attorney general along with  
13 the bond record and, if so submitted, the approval by the attorney  
14 general of the bonds shall constitute an approval of such contract  
15 or contracts, and thereafter the contract or contracts shall be  
16 incontestable for any cause except for forgery or fraud.

17       Sec. 15. The board of directors shall designate, establish  
18 and maintain a district office as provided by Section 49.062, Water  
19 Code [~~Article 7880-44~~], and, in addition, may establish a second  
20 district office outside the district. Either or both district  
21 offices so established and maintained may be a private residence,  
22 office or dwelling in which event such private residence, office or  
23 dwelling is hereby declared a public place for matters relating to  
24 the district's business.

25       If the board of directors establishes a district office  
26 outside the district, it shall give notice of the location of that  
27 district office by filing a true copy of its resolution

1 establishing the location of such district office with the Texas  
2 Commission on Environmental Quality [~~Water Rights Commission~~], by  
3 filing a true copy in the municipal utility [~~Water Control and~~  
4 ~~Improvement~~] district records of the county in which the district  
5 is located and also by publishing the location in a newspaper of  
6 general circulation in said county.

7 If the location of the district office outside the district  
8 is thereafter changed, notice of such change shall be given in the  
9 same manner.

10 Sec. 17. All elections to authorize the issuance of bonds by  
11 the district shall be held pursuant to the general law applicable to  
12 municipal utility [~~water control and improvement~~] districts[~~+~~  
13 ~~provided, however, that if the first bond election fails, Article~~  
14 ~~7880-77b, Vernon's Texas Civil Statutes, or any other provision of~~  
15 ~~the general law pertaining to dissolution of the district when a~~  
16 ~~bond election fails, shall not apply~~].

17 SECTION 2. (a) The legal notice of the intention to  
18 introduce this Act, setting forth the general substance of this  
19 Act, has been published as provided by law, and the notice and a  
20 copy of this Act have been furnished to all persons, agencies,  
21 officials, or entities to which they are required to be furnished  
22 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
23 Government Code.

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

27 (c) The Texas Commission on Environmental Quality has filed

1 its recommendations relating to this Act with the governor, the  
2 lieutenant governor, and the speaker of the house of  
3 representatives within the required time.

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

8 SECTION 3. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2017.