

CHAPTER 344

S.B. No. 1403

AN ACT

relating to the creation, administration, powers, duties, functions, operations, and financing of the Brookeland Municipal Utility District; providing for the authorization of bonds and the levy of property taxes.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) A conservation and reclamation district, to be known as the Brookeland Municipal Utility District, is created in Jasper County, subject to approval at a confirmation election under Section 11 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the Brookeland Municipal Utility District.

SECTION 3. BOUNDARIES. The district includes the territory contained within the following area:

BEING 1580 ACRES, MORE OR LESS, OUT OF THE M. CUMMINGS SURVEY, ABSTRACT NO. 11, DONALD MCDONALD LEAGUE, ABSTRACT NO. 36, E. S. JOHNSTON LEAGUE ABSTRACT NO. 26, S. W. BLOUNT, JR. SURVEY, ABSTRACT NO. 493, SABINE COUNTY, TEXAS, AND J. H. KIRBY SURVEY, ABSTRACT NO. 917, AND THE WILLIAM WALKER SURVEY, ABSTRACT NO. 526, JASPER COUNTY, TEXAS, AND SAID 1580 ACRES, MORE OR LESS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a point at the intersection of the centerline of U.S. Highway No. 96 and the centerline of Mill Creek, said point being 400 feet, more or less, north of the intersection of the centerlines of U.S. Highway 96 and State Highway No. 149 in Jasper County;

THENCE West for a distance of 1700 feet, more or less, to the United States Corp of Engineer Boundary line for Sam Rayburn Reservoir;

THENCE in a northerly direction with the meanders of the United States Corp of Engineers Boundary line for the Sam Rayburn Reservoir for a distance of 13 miles, more or less, to a point at the intersection of said boundary line and the west right-of-way line of the Gulf Coast and Santa Fe Railroad, said point being located, along the west right-of-way line of said railroad, a distance of 7500 feet more or less, north of the Sabine County and Jasper County line;

THENCE in a southerly direction with the west right-of-way line of said railroad for a distance of 9500 feet, more or less, to a point for corner at the intersection of said railroad right-of-way and the north boundary line of the City of Brownell, Texas; said point being located 2350 feet, more or less, in a southerly direction along the said railroad right-of-way from the Sabine and Jasper county line;

THENCE in a northwesterly direction with the northerly boundary line of said City of Brownell for a distance of 5100 feet, more or less, to point for corner in the east right-of-way line of said U.S. Highway No. 96;

THENCE in a southerly direction along the east right-of-way line of U.S. Highway No. 96 for a distance of 3000 feet, more or less, to the PLACE OF BEGINNING.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to issue bonds or refunding bonds or to pay the principal of or interest on the bonds, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

SECTION 5. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

SECTION 6. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties conferred by the general law of this state, including those conferred by Chapters 50 and 54, Water Code, applicable to municipal utility districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) The rights, powers, privileges, authority, functions, and duties granted to the district are subject to the continuing right of supervision of the state, to be exercised by and through the Texas Natural Resource Conservation Commission.

SECTION 7. BONDS. The district may issue bonds to provide all improvements and the maintenance of the improvements necessary to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution and this Act.

SECTION 8. TAXING AUTHORITY. (a) The district may levy, assess, and collect equitably distributed taxes necessary:

- (1) to pay the interest on bonds issued by the district;
- (2) to create a sinking fund for the payment of the bonds; and
- (3) for the maintenance of the district and improvements.

(b) The district may levy, assess, collect, and pledge to the payment of bonds all or a portion of:

(1) an annual ad valorem tax on all taxable property within the district without limit as to rate or amount; or

(2) a tax, annual or otherwise, on all taxable real property in the district apportioned according to a special benefit received by the property as a result of district improvements.

(c) Any property within 100 feet of a water line, a sewer line, or both is deemed to receive a special benefit, and the district may impose on the property the tax authorized by Subdivision (2) of Subsection (b) of this section.

(d) Before any tax is levied, the board of directors shall hold a public hearing in the district. The board of directors shall publish notice of the hearing in a newspaper of general circulation in the district once a week for two consecutive weeks, the date of the first publication to be not later than 14 days before the date of the hearing. The board of directors may not levy a tax unless the tax is approved at an election called and conducted in the manner provided by Subchapter F, Chapter 54, Water Code, for a bond election. The board of directors shall draft a reasonable ballot proposition for the election. Taxes levied by the district shall be equitably distributed. The annual ad valorem tax shall be levied on an equal and uniform basis.

SECTION 9. MAINTENANCE TAX. (a) The district may levy and collect a tax for maintenance purposes, including planning, maintaining, repairing, and operating all necessary plants, works, facilities, improvements, appliances, and equipment of the district and paying costs of proper services, engineering, and legal fees and organization and administrative expenses.

(b) A maintenance tax may not be levied by the district until it is approved by a majority of the voters who vote in an election held for that purpose.

(c) The maintenance tax election may be held at the same time and in conjunction with the election to authorize bonds. The election must be called and conducted in the manner provided by Subchapter F, Chapter 54, Water Code, for a bond election. The board of directors shall draft a reasonable ballot proposition for the election.

SECTION 10. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Except for the temporary and initial directors, each director shall serve for the term of office provided for directors under Chapter 54, Water Code, and until the director's successor is elected and has qualified.

(c) Each director shall qualify to serve as director in the manner provided by Chapter 54, Water Code.

(d) The temporary board of directors of the district is composed of:

- (1) Coy Pinnix;
- (2) Doris Hamilton;
- (3) Wilburn Weaver;
- (4) Richard Chapman; and
- (5) Mrs. J. C. Linscomb.

(e) If a temporary director fails to qualify for office, the temporary directors who qualify for office shall appoint a person to fill the vacancy for the unexpired term. If at any time the number of qualified directors is fewer than three because of the failure or refusal of one or more directors to qualify to serve, because of death or incapacitation, or for any other reason, the Commissioners Court of Jasper County shall appoint the necessary number of directors to fill all vacancies on the board.

(f) The temporary directors shall serve until initial directors are elected as provided by Section 11 of this Act and Chapter 54, Water Code, and have qualified.

SECTION 11. CONFIRMATION AND DIRECTORS' ELECTION. (a) An election shall be called and held to confirm establishment of the district and to elect five initial directors as provided by Chapter 54, Water Code.

(b) Subsection (a), Section 41.001, Election Code, does not apply to an election under this section.

SECTION 12. ELECTION OF DIRECTORS. On the first Saturday in May of the second year after the year in which the confirmation election is held, an election shall be held in the district for the election of two directors, each of whom shall serve a two-year term, and three directors, each of whom shall serve a four-year term. On the first Saturday in May of each subsequent second year, the appropriate number of directors shall be elected to the board.

SECTION 13. ADDITIONAL AUTHORITY. (a) The district may enter into contracts for:

- (1) the purchase or sale of both raw and treated water;
- (2) the transportation, treatment, and disposal of the district's domestic, industrial, or communal wastes;
- (3) the transportation, treatment, and disposal of domestic, industrial, or communal wastes as provided by Chapter 30, Water Code;
- (4) the purchase, lease, use, management, control, or operation of water treatment or distribution facilities; sewer collection and treatment facilities, or all or part of facilities or systems owned by other political subdivisions; and
- (5) planning, surveying, investigating, or preparing reports of any kind.

(b) The district may acquire, develop, and use underground or surface water rights.

SECTION 14. DISTRICT FACILITIES. (a) The district may adopt standard specifications for facilities that are designed or constructed to provide:

- (1) storage, treatment, or transportation of water for domestic, municipal, or industrial purposes;
- (2) collection, treatment, and disposal of sewage; or
- (3) disposal of solid wastes.

(b) The board shall hold a public hearing on the adoption of standard specifications for facilities of the district. The board shall give notice of the hearing to the Texas Natural Resource Conservation Commission and shall publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date set for the hearing.

(c) A person adversely affected by a standard specification may bring suit in the district court of Jasper County for a declaratory judgment on the validity of the specification. The court may declare the specification invalid only if the court finds the adoption of the standard to be arbitrary, capricious, or an abuse of discretion.

(d) The district may bring suit to enjoin the construction of a facility subject to the specifications or addition to an existing facility subject to the specifications or against a facility whose operations are not in compliance with the specifications.

(e) The specifications shall be filed with the Texas Natural Resource Conservation Commission.

(f) Specifications adopted under this section do not apply to a facility within the boundaries or extraterritorial jurisdiction of a municipality unless the governing body of the municipality approves the specifications by resolution.

SECTION 15. CONSTRUCTION OR ACQUISITION OF WATER OR SEWER SYSTEMS. (a) The district may acquire any existing water system, sewer system, or water and sewer system that serves all or part of the territory located inside or outside the district's boundaries.

(b) The district may improve and extend an acquired system or may construct a water system, sewer system, or water and sewer system.

(c) Construction contracts are governed by the competitive bidding requirement provided by Subchapter B, Chapter 271, Local Government Code, but contracts for the acquisition of existing water or sewer facilities may be made on terms to which the parties agree.

SECTION 16. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The legislature finds that the Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) The general law relating to consent by political subdivisions to the creation of conservation and reclamation districts and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of this legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 17. TRANSITION PROVISION. A reference in this Act to the Texas Natural Resource Conservation Commission means the Texas Water Commission until the name of the Texas Water Commission is changed to the Texas Natural Resource Conservation Commission as provided by Section 1.085, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991.

SECTION 18. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 7, 1993: Yeas 30, Nays 0; passed the House on May 14, 1993: Yeas 106, Nays 0, one present not voting.

Approved May 29, 1993.

Effective May 29, 1993.