

CHAPTER 1086

S.B. No. 1326

AN ACT

relating to the creation, administration, powers, duties, functions, operations, and financing of the Rayburn Country Municipal Utility District and providing for the levy of property taxes.

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

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) Pursuant to Article XVI, Section 59, of the Texas Constitution a conservation and reclamation district is created in Jasper County to be known as "Rayburn Country Municipal Utility District," which shall be a governmental agency and a body politic and corporate.

(b) The creation of the district is declared to be essential to the accomplishment of the purposes of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means Rayburn Country Municipal Utility District.

SECTION 3. BOUNDARIES. The district shall include all of the territory contained within the following described area:

All that certain 2850 acre tract of land, situated in Jasper County, Texas, being a part of Abstract 257-H & TCRR Section 151, Abstract 988-WL & Co. Section 146, Abstract 37-Robert Stone League, Abstract 344-Lewis Letney League, Abstract 893-H & TCRR Section 154, Abstract 256-H & TCRR Section 153 and Abstract 987-WL & Co. Section 152, said 2850 acre tract of land being more particularly described as follows:

Beginning at a concrete monument J-106 for the Northeast corner of Section 151 and the Southeast corner of said Section 152 in the West boundary of Abstract 908-John H. Kirby Section 158, said monument being the beginning point of a certain 319.98 acre tract as described in a deed from Jasper Timber Company to Sabine Investment Company, Inc. and recorded in Volume 224 on Page 85 of the Deed Records of Jasper County, Texas;

Thence S02°9'E, with the East lines of said 319.98 acre tract and said Section 151, 3280.86 feet to a point in the North boundary of F.M. Highway No. 255;

Thence Westerly, with the North boundary of said highway, approximately 5100 feet to a point in the East boundary of a 39.71 acre tract conveyed to Rayburn Land Company by East Texas Pulp and Paper Company by deed recorded in Volume 185 on Page 147 of the Deed Records of Jasper County, Texas;

Thence S3°2'E, with the East boundary of said 39.71 acre tract, passing the Southeast corner of same at 572.53 feet and continuing along the East boundary of a 21.97 acre tract conveyed in above mentioned Deed, a total of 2023.83 feet to a concrete monument for the Southeast corner of said 21.97 acre tract;

Thence S86°8'W, with the South boundary of said 21.97 acre tract, passing the Southwest corner of same at 642.5 feet, same being the Southeast corner of a 182.96 acre tract conveyed in above mentioned Deed, said corners being in the West boundary of said Section 151 and being N4°8'W 1148.5 feet from the Southwest corner of same and continuing a total distance of 6128.17 feet to a concrete monument for the Southwest corner of said 182.96 acre tract in the West boundary of said WL & Co. Section 146 at a point being N4°0'W 1090 feet from the Southwest corner of same;

Thence N4°0'W, with the West boundary of said Section 146, same being the East boundary of said Robert Stone League, passing a steel stake stamped C-909 for the Northwest corner of said 182.96 acre tract, same being the Southwest corner of a 309.1 acre tract conveyed in above mentioned Deed, and continuing a total distance of 3804.93 feet to a concrete monument for corner in the U.S. Corp of Engineers Fee line around Sam Rayburn Reservoir;

Thence S73°4'55"E, with said Fee line, 280.75 feet to a point in the West boundary of the Methodist Church tract;

Thence Northerly, with said Fee line along the West boundary of sewage treatment plant and adjoining property, approximately 1000 feet to the Southeast corner of Lot 9 of Section 2 of Rayburn Country as recorded in Volume 1 on page 76 of the Plat Records of Jasper County, Texas;

Thence N83°5'W 379.98 feet and N4°0'W 92.0 feet to a concrete monument J-851 for the Northwest corner of said Section 152, same being the Northeast corner of said Robert Stone League and being in the South boundary of said Lewis Letney League;

Thence S86°6'W, with said Fee line and said Section 2, 340.77 feet to the Southeast corner of Lot 1 of Section 1 of Rayburn Country as recorded in Volume 1 on Page 95 of the Plat Records of Jasper County, Texas;

Thence Westerly, Northerly and Easterly, with said fee line and the boundary of said Section 1 to the most Western corner of above mentioned Section 2;

Thence Easterly, with said Fee line and said North boundary of said Section 2, to the Northeast corner of Lot 31 of same, said corner being in the West boundary of the Rayburn Country Improvement Association 6.38 acre tract;

Thence around the West, North and East boundaries of said 6.38 acre tract to a point in the North boundary of Lot 35 of said Section 2;

Thence Easterly, with the North boundary of said Section 2, to the Southwest corner of the Wanda Petroleum Co. 4.10 acre tract;

Thence Northerly, Easterly and Southerly, around the boundary of said 4.10 acre tract, to a point in the North boundary of Lot 40 of said Section 2;

Thence Easterly, with the North boundary of said Section 2, to a point in the North boundary of the Baptist Church 2.65 acre tract the same being in said Fee lines;

Thence Easterly, with said Fee line, to the South corner of Lot 1 of Section 6 of Rayburn Country as recorded in Volume 1 on Page 82 of the Plat Records of Jasper County, Texas;

Thence Westerly, Northerly and Easterly with said Fee line and the boundary of the Southern portion of said Section 6, to the intersection of same with the West boundary of F.M. Highway No. 1007;

Thence N7°6'E, with said West boundary of said highway, 189.4 feet to said Fee line;

Thence Westerly and Northerly, with said Fee line and the boundary of the Northern portion of said Section 6, to the Northwest corner of Lot 38 in said Section 6;

Thence Westerly and Northerly, with said Fee line, to the intersection of same with Section 8 of Rayburn Country as recorded in Volume 1 on Page 93 of the Plat Records of Jasper County, Texas;

Thence Westerly, with the said Fee line and the boundary of said Section 8 to the point of intersection of same with the LNVA 5.14 acre tract;

Thence Southerly, Westerly and Northerly, around said 5.14 acre tract, to a point in the boundary of Section 9 of Rayburn Country;

Thence Westerly, with said Fee line and the boundaries of said Section 9 and Sections 10 and 12 of Rayburn Country as recorded in Volume 1 on Pages 94, 96 and 101 respectively of the Plat Records of Jasper County, Texas, to a concrete monument 104-2N-3 for the Northeast corner of the Yacht Club 3.341 acre tract;

Thence S24°9'44"E 504.43 feet to a concrete monument 104-2N-2 and S00°2'24"E 98.5 feet to an iron pin for the Southeast corner of said 3.341 acre tract and the Northeast corner of Section 44 of Rayburn Country as recorded in Volume 2 on page 5 of the Plat Records of Jasper County, Texas;

Thence Southerly, Westerly and Northerly, with said U.S. Corps of Engineers Fee line around Sam Rayburn Reservoir and boundaries of said Section 44, to an iron pin for the Northwest corner of said Section 44 and the Southwest corner of above mentioned Yacht Club 3.341 acre tract;

Thence N03°3'53"W 241.5 feet to a concrete monument 104-2L-48 for the Northwest corner of said 3.341 acre tract and the Southwest corner of Section 12 of Rayburn Country as recorded in Volume 1 on Page 101 of the Plat Records of Jasper County, Texas;

Thence Westerly and Northerly, with said Fee line and the boundary of said Section 12, to the Southwest corner of The Point Subdivision of Rayburn Country;

Thence Northerly, Easterly and Southerly, with said Fee Line and the boundary of said Subdivision, to the Southeast corner of same in boundary of Section 22 of Rayburn Country as recorded in Volume 1 on Page 135 of the Plat Records of Jasper County, Texas;

Thence Easterly, with the boundary of said Section 22 and Sections 30, 31 and 32 as recorded in Volume 2 on pages 90, 6 and Volume 1 on Page 155 respectively of the Jasper County, Texas Plat Records, to the point of intersection of said Fee line with the West boundary of F.M. Highway No. 1007;

Thence Northerly, with the West boundary of said highway, to the point of intersection of same with the said U.S. Corp. of Engineers Fee line around Sam Rayburn Reservoir;

Thence Northwesterly, Easterly and Northerly, with said Fee line and the boundary of Section 33 of Rayburn Country as recorded in Volume 2 on Page 13 of the Plat Records of Jasper County, Texas, to the Southeast corner of Lot 151 of Section 34 of Rayburn Country as recorded in Volume 1 on page 154 of the Plat Records of Jasper County, Texas;

Thence Westerly, with said Fee line and the boundary of said Section 34, to a point in the South boundary of Lot 91 of Section 35 of Rayburn Country as recorded in Volume 1 on Page 155 of the Plat Records of Jasper County, Texas;

Thence Westerly, Northerly and Easterly, with said Fee line and boundary of said Section 35, to a corner of Lot 50 of Section 36 of Rayburn Country as recorded in Volume 1 on page 156 of the Plat Records of Jasper County, Texas;

Thence Northwesterly, Easterly and Southerly, with said Fee line and boundary of said Section 36 to a point in the North boundary of above mentioned Section 34;

Thence Northeasterly and Southeasterly, with said Fee line and boundary of said Section 34, to a point in the West boundary of Lot 12 of Section 37 of Rayburn Country as recorded in Volume 2 on Page 11 of the Plat Records of Jasper County, Texas;

Thence Northerly and Easterly, with said Fee line and boundary of said Section 37 to the point of intersection of same with the West boundary of F.M. Highway No. 1007;

Thence Northerly, with the West boundary of said highway, to the point of intersection of same with said U.S. Corp of Engineers Fee line at the Southeast corner of Section 38 of Rayburn Country as recorded in Volume 1 on Page 151 of the Plat Records of Jasper County, Texas;

Thence Westerly and Northerly, with said Fee line and boundary of said Section 38, to a point in the South boundary of Section 40 of Rayburn Country as recorded in Volume 1 on page 152 of the Plat Records of Jasper County, Texas;

Thence Northerly and Southeasterly, with said Fee line and boundary of said Section 40, to the Northwest corner of Lot 13 of above mentioned Section 38;

Thence Easterly, with said Fee line and boundary of said Section 38, to a point in the West boundary of Section 39 of Rayburn Country as recorded in Volume 2 on Page 12 of the Plat Records of Jasper County, Texas;

Thence Northerly and Easterly, with said Fee line and boundary of said Section 39, to the point of intersection of same with the West boundary of F.M. Highway No. 1007;

Thence Southerly, with the West boundary of said highway, to the point of intersection with the Westerly projection of the North boundary of Section MH-1 of Rayburn Country as recorded in Volume 1 on Page 125 of the Jasper County, Texas Plat Records;

Thence S55°0'05" with said projection across said highway, to the Northwest corner of said Section MH-1 in the East boundary of said highway, same being the Southwest corner of Tract Two (855.026 acre tract) in a deed from DMI Investment Corp. to John R. Winston, Jr. ET AL as recorded in Volume 359 on Page 288 of the Deed Records of Jasper County, Texas;

Thence Easterly, with a portion of the South boundary of said Tract Two as described in said deed, to the Northwest corner of the H & TCRR Section 157;

Thence S02°9'E, with the West boundary of said Section 157, same being the East boundary of H & TCRR Section 153, to a concrete monument J-860 for the Southeast corner of said Section 153 and the Northeast corner of WL & Co. Section 152;

Thence S02°9'E, with the East boundary of said Section 152, to the place of beginning and containing 3114.214 acres of land;

Save and Except that certain 264.214 acre tract described as Tract One in a deed from DMI Investment Corp. to John R. Winston, Jr. ET AL as recorded in Volume 359 on Page 288 of the Deed Records of Jasper County, Texas, leaving a net of 2850 acres of land, more or less.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. If any mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, or the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 5. FINDING OF BENEFIT. The legislature finds that 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 and that 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, and functions conferred by the general laws of this state applicable to municipal utility districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 50 and Chapter 54, Water Code. If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails.

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

SECTION 7. BOARD OF DIRECTORS. (a) The district is governed by a board of seven directors.

(b) Except for the initial directors, each director shall serve for the term of office provided for directors under Chapter 54, Water Code, and until his 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) At the time this Act takes effect, the following persons shall constitute the initial board of directors of the district:

- (1) W. E. Whitnell
- (2) Jodie Crouch
- (3) Miles M. Durham
- (4) William Bradley
- (5) H. J. Shands, Jr.
- (6) Alan C. Kimbrough
- (7) Louis Hull.

(e) If any of the directors listed in Subsection (d) of this section fails to qualify for office, the remaining directors shall appoint someone to fill the vacancy for the unexpired term. If at any time the number of qualified directors is less than four because of the failure or refusal of one or more directors to qualify or 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 initial directors shall serve until permanent directors are elected as provided by Section 9 of this Act and Chapter 54, Water Code.

(g) A candidate for director must submit to the secretary of the board of directors a petition signed by at least 50 qualified voters of the district requesting that the person's name be printed on the ballot. The petition must be submitted not later than the 31st day before the date of the election.

(h) Membership in a homeowners association does not disqualify a person under Section 54.1231, Water Code, from being a director of the district.

SECTION 8. CONFIRMATION AND DIRECTORS' ELECTION. (a) An election shall be called and held to confirm establishment of the district and to elect seven permanent directors as provided by Chapter 54, Water Code.

(b) Subsection (a), Section 41.001, Election Code, does not apply to a confirmation election held as provided by this section.

SECTION 9. ELECTION OF DIRECTORS. Beginning in the second year following the confirmation and directors' election, an election shall be held on the third Saturday in May every two years to elect the appropriate number of directors to the board.

SECTION 10. ADDITIONAL AUTHORITY. (a) The district may enter into contracts for the following purposes:

- (1) the purchase or sale of both raw and treated water;
- (2) the transportation, treatment, and disposal of its domestic, industrial, or communal wastes;
- (3) the transportation, treatment, and disposal of domestic, industrial, or communal wastes of others as provided by Chapter 30, Water Code;
- (4) the purchase, lease, use, management, control, or operation of water treatment or distribution, or sewer collection and treatment, facilities, 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 11. DISTRICT FACILITIES. (a) The district may establish 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 standards for facilities of the district. The board shall give notice of the hearing to the Texas Water Commission and the Texas Department of Health 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) Appeal for an order adopting standard specifications may be made to the district court of Jasper County, and the substantial evidence rule applies.

(d) The district may seek injunctive relief against the construction of any facility or addition to an existing facility or against a facility whose operations are not in compliance with the standard specifications.

(e) The standard specifications shall be filed with the Texas Water Commission.

(f) Specifications adopted under this section do not apply within the boundaries or extraterritorial jurisdiction of a municipality unless the governing body of the municipality by resolution gives its approval.

SECTION 12. CONSTRUCTION AND ACQUISITION OF 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 a water and sewer system.

(c) Construction contracts are governed by the competitive bidding requirement provided by Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes), but contracts for the acquisition of existing water or sewer facilities may be made on terms agreed on by the parties.

SECTION 13. ADDITIONAL TAX. (a) The district may adopt and impose on the owners of undeveloped property in the district a tax on the undeveloped property that is in addition to taxes levied by the district on that property. Property within 100 feet of a water line, sewer line, or both, that receives a special benefit from the district, may be taxed as provided by this section.

(b) The board shall hold a public hearing before levying the tax. The board shall publish notice of the hearing in a newspaper of general circulation in the district not later than the 14th day before the date set for the hearing.

(c) The board shall call and hold an election for the levy and collection of the tax as provided by Chapter 54, Water Code.

(d) Sections 54.204 and 54.2041, Water Code, do not apply to the district.

(e) In addition to any other taxes levied by the district, the district may adopt and enforce all necessary charges, fees, and rentals to provide district facilities or district services. All necessary charges, fees, rentals, and taxes imposed by the district constitute a lien on land against which the charges or assessments have been established. Any law providing limitation against actions for debt does not apply to this subsection.

SECTION 14. NOTICE, ETC. The legislature finds that 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 has 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 of Texas, who has submitted the notice and Act to the Texas Water Commission. Also, the legislature finds that the Texas Water 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. 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 the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 15. ELECTION OF INITIAL DIRECTORS. (a) At the confirmation and directors' election, the four directors receiving the highest number of votes shall serve four-year terms and until their successors are elected and have qualified. The three directors receiving the fewest number of votes shall serve two-year terms and until their successors are elected and have qualified. In the event of a tie, the persons receiving the same number of votes shall draw lots for the office or term. Successor directors serve four-year terms.

(b) The initial board of directors serves until the first regular meeting of the board following the date the confirmation and directors' election returns are canvassed.

SECTION 16. 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, 1987: Yeas 31, Nays 0; Senate concurred in House amendment on May 25, 1987: Yeas 29, Nays 0; passed the House, with amendment, on May 22, 1987: Yeas 148, Nays 0, one present not voting.

Approved June 18, 1987.

Effective June 18, 1987.