

By: Thompson of Brazoria

H.B. No. 4582

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 79; 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 8151 to read as follows:

CHAPTER 8151. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 79

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8151.0101. 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 Brazoria County Municipal Utility District No. 79.

Sec. 8151.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8151.0103. CONFIRMATION AND DIRECTOR 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. 8151.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 8151.0103 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. 8151.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8       (a) 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. 8151.0106. 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. 8151.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 8151.0202, directors  
6 serve staggered four-year terms.

7           Sec. 8151.0202. TEMPORARY DIRECTORS. (a) The temporary  
8 board consists of:

9                   (1) Mark C. Wargo;

10                   (2) Kathleen English;

11                   (3) Inna Babbitt;

12                   (4) Linda Houston; and

13                   (5) John B. Tickle.

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

15                   (1) the date permanent directors are elected under  
16 Section 8151.0103; 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 8151.0103 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 8151.0103; 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. 8151.0301. GENERAL POWERS AND DUTIES. The district  
10 has the powers and duties necessary to accomplish the purposes for  
11 which the district is created.

12       Sec. 8151.0302. 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. 8151.0303. 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. 8151.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
24 road project must meet all applicable construction standards,  
25 zoning and subdivision requirements, and regulations of each  
26 municipality in whose corporate limits or extraterritorial  
27 jurisdiction the road 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. 8151.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
10 ORDINANCE OR RESOLUTION. The district shall comply with all  
11 applicable requirements of any ordinance or resolution that is  
12 adopted under Section 54.016 or 54.0165, Water Code, and that  
13 consents to the creation of the district or to the inclusion of land  
14 in the district.

15               SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16       Sec. 8151.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
17 The district may issue, without an election, bonds and other  
18 obligations secured by:

- 19               (1) revenue other than ad valorem taxes; or  
20               (2) contract payments described by Section 8151.0403.

21       (b) The district must hold an election in the manner  
22 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
23 before the district may impose an ad valorem tax or issue bonds  
24 payable from ad valorem taxes.

25       (c) The district may not issue bonds payable from ad valorem  
26 taxes to finance a road project unless the issuance is approved by a  
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8151.0402. OPERATION AND MAINTENANCE TAX. (a) If  
3 authorized at an election held under Section 8151.0401, the  
4 district may impose an operation and maintenance tax on taxable  
5 property in the district in accordance with Section 49.107, Water  
6 Code.

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

9 Sec. 8151.0403. CONTRACT TAXES. (a) In accordance with  
10 Section 49.108, Water Code, the district may impose a tax other than  
11 an operation and maintenance tax and use the revenue derived from  
12 the tax to make payments under a contract after the provisions of  
13 the contract have been approved by a majority of the district voters  
14 voting at an election held for that purpose.

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

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8151.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
20 OBLIGATIONS. The district may issue bonds or other obligations  
21 payable wholly or partly from ad valorem taxes, impact fees,  
22 revenue, contract payments, grants, or other district money, or any  
23 combination of those sources, to pay for any authorized district  
24 purpose.

25 Sec. 8151.0502. TAXES FOR BONDS. At the time the district  
26 issues bonds payable wholly or partly from ad valorem taxes, the  
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all  
2 or part of the bonds are outstanding as required and in the manner  
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8151.0503. BONDS FOR ROAD PROJECTS. At the time of  
5 issuance, the total principal amount of bonds or other obligations  
6 issued or incurred to finance road projects and payable from ad  
7 valorem taxes may not exceed one-fourth of the assessed value of the  
8 real property in the district.

9 SECTION 2. The Brazoria County Municipal Utility District  
10 No. 79 initially includes all the territory contained in the  
11 following area:

12 Being 79.905 acres of land located in the A. C. H. & B. R. R.  
13 Co. Survey, Section 90 also known as the Kate R. Ehrmann Survey,  
14 Abstract 459 of Brazoria County, Texas, more particularly being a  
15 portion of Block "O" of the Allison Richey Gulf Coast Home Company  
16 Part of Suburban Gardens, a subdivision of record in Volume 2, Page  
17 91 & 92, Plat Records, Brazoria County, Texas (B.C.P.R.) more  
18 particularly being all of those certain tracts called 2.2229 acres  
19 (referred to as Tract B), 16.6700 acres (referred to as Tract C),  
20 46.8412 acres (referred to as Tract D), 14.1479 acres (referred to  
21 as Tract E) conveyed to VDB Partners, Ltd, by instrument of record  
22 in File Number 99-050835, Official Records of Brazoria County,  
23 Texas (B.C.O.R.), all of those certain tracts called 46.8412 acres  
24 (referred to as Tract D), and 14.1479 acres (referred to as Tract E)  
25 conveyed to VDB Partners, Ltd, by instrument of record in File  
26 Number 99- 050834, B.C.O.R. and in an affidavit to correct legal  
27 description of record under File Number 2006000883, B.C.O.R., said

1 79.905 acres being more particularly described by metes and bounds  
2 in two tracts, Tract One being 16.447 acres and Tract Two being  
3 63.458 acres as follows (all bearings referenced to the Texas  
4 Coordinate System, South Central Zone, NAO 83 (1993 adjustment));

5 TRACT ONE

6 BEGINNING at a 5/8-inch iron rod found for a re-entrant  
7 corner on the north line of that certain called 99.9653 acre tract  
8 conveyed to SLP 288 and Rodeo Palms II, LP, by instrument of record  
9 in File No. 2004064049, B.C.O.R.;

10 Thence, North 03° 08' 38" West, along the west line of said  
11 14.1479 acre tract and the most northerly east line of said 99.9653  
12 acre tract, 333.68 feet to a 5/8-inch iron rod with cap stamped "LA  
13 THOMPSON 3987" found for the most northerly northeast corner of  
14 said 99.9653 acre tract, same being the southeast corner of Lot 19,  
15 Section 90 of the Allison Richey Gulf Coast Home Company Part of  
16 Suburban Gardens, a subdivision of record in Volume 2, Page 98,  
17 B.C.P.R.;

18 Thence, North 03° 19' 05" West, continuing along the west line  
19 of said 14.1479 acre tract and along the east line of said Lot 19 and  
20 Lot 18 of said subdivision, passing at 1,318.43 feet a TXDOT  
21 concrete right-of-way monument found for the northeast corner of  
22 said Lot 18 and for an angle point on the easterly right-of-way line  
23 of State Highway 288 (width varies), from which a found TXDOT  
24 concrete right-of-way monument bears South 85° 24' 57" West, 7.42  
25 feet for an angle point on said easterly right-of-way line, and  
26 continuing along said easterly right-of-way line and said west line  
27 in all 1,354.07 feet to a 5/8-inch iron rod with cap stamped "LJA



1 ENG" set for an angle point on said easterly right-of-way line;

2 Thence, North 09° 45' 18" East, continuing along said 14.1479  
3 acre tract and said easterly right-of-way line, passing at 472.50  
4 feet a 5/8-inch iron rod found for the common west corner of said  
5 14.1479 acre tract and the aforementioned 2.2229 acre tract, and  
6 continuing along the common line of said easterly right-of-way line  
7 and the westerly line of said 2.2229 acre tract, in all 865.71 feet  
8 to a TXDOT concrete right-of-way monument found for an angle point  
9 on said easterly right-of-way line, the beginning of a curve;

10 Thence, continuing along said common line, 251.31 feet along  
11 the arc of a non-tangent curve to the left having a radius of  
12 1,195.92 feet, a central angle of 12° 02' 25", and a chord that bears  
13 North 03° 59' 19" East, 250.85 feet to a TXDOT concrete right-of-way  
14 monument found for the point of tangency of said easterly  
15 right-of-way line;

16 Thence, North 02° 01' 53" West, continuing along said common  
17 line, 23.81 feet to a 5/8- inch iron rod with cap stamped "LJA ENG"  
18 set for an angle point on said easterly right-of-way line;

19 Thence, North 41° 22' 51" East, continuing along said common  
20 line, 139.94 feet to a 5/8- inch iron rod with cap stamped "LJA ENG"  
21 set for an angle point on said easterly right-of-way line, said  
22 point being the north corner of said 2.2229 acre tract and located  
23 at the intersection of said easterly right-of-way line and the west  
24 right-of-way line of County Road No. 82 (70 feet wide, AKA Iowa  
25 Lane);

26 Thence, South 02° 27' 53" East, along said west right-of-way  
27 line and the east line of said 2.2229 acre tract, passing at 755.91

1 feet the common east corner of said 2.2229 and 14.1479 acre tracts,  
2 from which a found 5/8-inch iron rod bears North 81° 46' 31" West,  
3 2.79 feet and a found 1/2-inch iron rod bears South 05° 03' 37"  
4 East, 6.31 feet, and continuing along said west right-of-way line  
5 and the east line of said 14.1479 acre tract, in all 2,903.60 feet  
6 to a 5/8-inch iron rod with cap stamped "LJA ENG" set for the  
7 intersection of said west right-of-way line with the north line of  
8 said 99.9653 acre tract, from which a 5/8-inch iron rod bears North  
9 02° 27' 53" West, 1.68 feet;

10 Thence, South 86° 42' 53" West, along the north line of said  
11 99.9653 acre tract, 284.45 feet the POINT OF BEGINNING and  
12 containing 16.447 acres of land.

13 TRACT TWO

14 BEGINNING at a 5/8-inch iron rod found for the northeast  
15 corner of that certain called 99.9653 acre tract conveyed to SLP 288  
16 and Rodeo Palms II, LP, by instrument of record in File  
17 No. 2004064049, B.C.O.R.;

18 Thence, South 86° 42' 53" West, along the most easterly north  
19 line of said 99.9653 acre tract, 964.95 feet to a 5/8-inch iron rod  
20 with cap stamped "LJA ENG" set for the intersection of the east  
21 right-of-way line of County Road No. 82 (70 feet wide, AKA Iowa  
22 Lane) with the north line of said 99.9653 acre tract;

23 Thence, North 02° 27' 53" West, along said east right-of-way  
24 line, passing at 2,147.50 feet the common west corner of the  
25 aforementioned 46.8412 acre tract and the aforementioned 16.6700  
26 acre tract, from which a found 5/8-inch iron rod bears North 71° 19'  
27 55" West, 2.93 feet and a found 1/2-inch iron rod bears South 25° 18'

1 36" East, 6.82 feet, and continuing along said east right-of-way  
2 line and the west line of the aforementioned 16.6700 acre tract, in  
3 all 2,903.69 feet to a 5/8-inch iron rod with cap stamped "LJA ENG"  
4 set for the intersection of said east right- of-way line and  
5 easterly right-of-way line of State Highway 288 (width varies);

6 Thence, North 86° 38' 43" East, along said easterly  
7 right-of-way line and along a north line of said 16.6700 acre tract,  
8 139.51 feet to a 5/8-inch iron rod found for an angle point on said  
9 easterly right-of-way line and a re-entrant corner on said north  
10 line;

11 Thence, North 04° 30' 35" West, continuing along said easterly  
12 right-of-way line and said north line, 29.58 feet to a 5/8-inch iron  
13 rod found at the intersection of said easterly right-of-way line  
14 and the south right-of-way line of County Road 58 (called 60 feet  
15 wide);

16 Thence, North 86° 44' 06" East, along said south right-of-way  
17 line and said north line, passing at 754.62 feet the common survey  
18 line of said A. C. H. & B. R. R. Co. Survey, Section 90 and the Mary  
19 V. O'Donnell! Survey, Abstract 469, of said Brazoria County,  
20 continuing in all

21 784.31 feet to a 5/8-inch iron rod with cap stamped "LJA ENG"  
22 set for the northeast corner of said 16.6700 acre tract as described  
23 in File Number 99-050835, B.C.O.R.;

24 Thence, South 03° 17' 19" East, along the record east line of  
25 said 16.6700 acre tract, passing at 785.03 feet the common east  
26 corner of said 16.6700 and 46.8412 acre tracts, and continuing  
27 along the record east line of said 46.8412 acre tract in all

1 2,932.86 feet to the POINT OF BEGINNING and containing 63.458 acres  
2 of land.

3 Said Tract One and Tract Two containing a total of 79.905  
4 acres.

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

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

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

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

23 SECTION 4. (a) If this Act does not receive a two-thirds  
24 vote of all the members elected to each house, Subchapter C, Chapter  
25 8151, Special District Local Laws Code, as added by Section 1 of  
26 this Act, is amended by adding Section 8151.0306 to read as follows:

27 Sec. 8151.0306. NO EMINENT DOMAIN POWER. The district may

1 not exercise the power of eminent domain.

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

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