

By: Taylor

S.B. No. 2239

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 86; 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 7952A to read as follows:

CHAPTER 7952A. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 86

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7952A.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. 86.

Sec. 7952A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7952A.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. 7952A.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 7952A.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. 7952A.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. 7952A.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. 7952A.0201. GOVERNING BODY; TERMS. (a) The district  
4 is governed by a board of five elected directors.

5           (b) Except as provided by Section 7952A.0202, directors  
6 serve staggered four-year terms.

7           Sec. 7952A.0202. 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 7952A.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 7952A.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 7952A.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. 7952A.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. 7952A.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. 7952A.0303. AUTHORITY FOR ROAD PROJECTS. Under  
18 Section 52, Article III, Texas Constitution, the district may  
19 design, acquire, construct, finance, issue bonds for, improve,  
20 operate, maintain, and convey to this state, a county, or a  
21 municipality for operation and maintenance macadamized, graveled,  
22 or paved roads, or improvements, including storm drainage, in aid  
23 of those roads.

24 Sec. 7952A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
25 road project must meet all applicable construction standards,  
26 zoning and subdivision requirements, and regulations of each  
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road project is located.

2 (b) If a road project is not located in the corporate limits  
3 or extraterritorial jurisdiction of a municipality, the road  
4 project must meet all applicable construction standards,  
5 subdivision requirements, and regulations of each county in which  
6 the road project is located.

7 (c) If the state will maintain and operate the road, the  
8 Texas Transportation Commission must approve the plans and  
9 specifications of the road project.

10 Sec. 7952A.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
11 ORDINANCE OR RESOLUTION. The district shall comply with all  
12 applicable requirements of any ordinance or resolution that is  
13 adopted under Section 54.016 or 54.0165, Water Code, and that  
14 consents to the creation of the district or to the inclusion of land  
15 in the district.

16 Sec. 7952A.0306. DIVISION OF DISTRICT. (a) The district  
17 may be divided into two or more new districts only if the district:

- 18 (1) has never issued any bonds; and  
19 (2) is not imposing ad valorem taxes.

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

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

27 (d) The board, on its own motion or on receipt of a petition

1 signed by the owner or owners of a majority of the assessed value of  
2 the real property in the district, may adopt an order dividing the  
3 district.

4 (e) The board may adopt an order dividing the district  
5 before or after the date the board holds an election under Section  
6 7952A.0103 to confirm the district's creation.

7 (f) An order dividing the district shall:

8 (1) name each new district;

9 (2) include the metes and bounds description of the  
10 territory 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 new districts.

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 commission and record the order in the real property  
18 records of each county in which the district is located.

19 (h) Any new district created by the division of the district  
20 shall hold a confirmation and directors' election as required by  
21 Section 7952A.0103.

22 (i) If the creation of the new district is confirmed, the  
23 new district shall provide the election date and results to the  
24 commission.

25 (j) Any new district created by the division of the district  
26 must hold an election as required by this chapter to obtain voter  
27 approval before the district may impose a maintenance tax or issue

1 bonds payable wholly or partly from ad valorem taxes.

2 (k) Municipal consent to the creation of the district and to  
3 the inclusion of land in the district granted under Section  
4 7952A.0104 acts as municipal consent to the creation of any new  
5 district created by the division of the district and to the  
6 inclusion of land in the new district.

7 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

8 Sec. 7952A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
9 The district may issue, without an election, bonds and other  
10 obligations secured by:

- 11 (1) revenue other than ad valorem taxes; or  
12 (2) contract payments described by Section  
13 7952A.0403.

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

18 (c) The district may not issue bonds payable from ad valorem  
19 taxes to finance a road project unless the issuance is approved by a  
20 vote of a two-thirds majority of the district voters voting at an  
21 election held for that purpose.

22 Sec. 7952A.0402. OPERATION AND MAINTENANCE TAX. (a) If  
23 authorized at an election held under Section 7952A.0401, the  
24 district may impose an operation and maintenance tax on taxable  
25 property in the district in accordance with Section 49.107, Water  
26 Code.

27 (b) The board shall determine the tax rate. The rate may not

1 exceed the rate approved at the election.

2 Sec. 7952A.0403. CONTRACT TAXES. (a) In accordance with  
3 Section 49.108, Water Code, the district may impose a tax other than  
4 an operation and maintenance tax and use the revenue derived from  
5 the tax to make payments under a contract after the provisions of  
6 the contract have been approved by a majority of the district voters  
7 voting at an election held for that purpose.

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

11 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

12 Sec. 7952A.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
13 OBLIGATIONS. The district may issue bonds or other obligations  
14 payable wholly or partly from ad valorem taxes, impact fees,  
15 revenue, contract payments, grants, or other district money, or any  
16 combination of those sources, to pay for any authorized district  
17 purpose.

18 Sec. 7952A.0502. TAXES FOR BONDS. At the time the district  
19 issues bonds payable wholly or partly from ad valorem taxes, the  
20 board shall provide for the annual imposition of a continuing  
21 direct ad valorem tax, without limit as to rate or amount, while all  
22 or part of the bonds are outstanding as required and in the manner  
23 provided by Sections 54.601 and 54.602, Water Code.

24 Sec. 7952A.0503. BONDS FOR ROAD PROJECTS. At the time of  
25 issuance, the total principal amount of bonds or other obligations  
26 issued or incurred to finance road projects and payable from ad  
27 valorem taxes may not exceed one-fourth of the assessed value of the



1 real property in the district.

2 SECTION 2. The Brazoria County Municipal Utility District  
3 No. 86 initially includes all the territory contained in the  
4 following area:

5 206.94 ACRES OF LAND, BEING A PART OF THE PERRY AND AUSTIN  
6 LEAGUE, ABSTRACT 109, BRAZORIA COUNTY, TEXAS, AND BEING OUT OF THAT  
7 CERTAIN TRACT DESCRIBED IN A DEED TO IP FARMS AS PARCEL 34, TRACT 1,  
8 RECORDED IN VOLUME 1769, PAGE 350, DEED RECORDS OF BRAZORIA COUNTY,  
9 TEXAS, SAID 206.94 ACRES BEING MORE PARTICULARLY DESCRIBED AS  
10 FOLLOWS:

11 BEGINNING at a 3/4 inch iron pipe set for the South corner of  
12 the herein described tract and the East corner of Tract 4 this day  
13 surveyed in the Northwest right-of-way line of F. M. 2004 (300.0  
14 feet wide in Volume 873, Page 612, Deed Records), said point being  
15 located North 43 deg. 30 min. 34 sec. East - 1544.16 feet from a 3/4  
16 inch iron pipe found at the East corner of a 15.0 acre tract  
17 described in a deed from IP Farms to Regency Cleaners, Inc. recorded  
18 in Clerk's File 00-032313;

19 THENCE North 43 deg. 35 min. 12 sec. West, along the Northeast  
20 line of Tract 4, a distance of 121.04 feet to a 3/4 inch iron pipe  
21 set for angle point;

22 THENCE North 55 deg. 26 min. 28 sec. West, along the Northeast  
23 line of Tract 4, a distance of 161.66 feet to a 3/4 inch iron pipe  
24 set for angle point;

25 THENCE North 44 deg. 16 min. 35 sec. West, along the Northeast  
26 line of Tract 4, a distance of 1738.74 feet to a 3/4 inch iron pipe  
27 set for angle point;

1           THENCE North 59 deg. 34 min. 22 sec. West, along the Northeast  
2 line of Tract 4, a distance of 158.26 feet to a 3/4 inch iron pipe  
3 set for angle point;

4           THENCE North 82 deg. 17 min. 31 sec. West, along the North  
5 line of Tract 4, a distance of 827.12 feet to a 3/4 inch iron pipe  
6 set for angle point;

7           THENCE South 68 deg. 39 min. 28 sec. West, along the North  
8 line of Tract 4, a distance of 960.63 feet to a 3/4 inch iron pipe  
9 found for the West corner of the herein described tract in the  
10 Southeast line of Tract 5 heretofore surveyed;

11           THENCE North 22 deg. 08 min. 26 sec. East, along the Southeast  
12 line of Tract 5, a distance of 152.05 feet to a 3/4 inch iron pipe  
13 found for angle point;

14           THENCE North 39 deg. 52 min. 48 sec. East, along the Southeast  
15 line of Tract 5, at 2279.02 feet pass a 3/4 inch iron pipe set for  
16 reference corner, and continue for a total distance of 2379.02 feet  
17 to a point marking the North corner of the herein described tract in  
18 the Southwest line of Tract 6 this day surveyed, said point being in  
19 the centerline of Persimmon Bayou;

20           THENCE North 85 deg. 31 min. 02 sec. East, along the  
21 centerline of Persimmon Bayou and the Southwest line of Tract 6, at  
22 52.97 feet pass the South corner of Tract 6 and the West corner of  
23 Tract 2, and continue along the Southwest line of Tract 2 for a  
24 total distance of 1183.48 feet to an angle point;

25           THENCE South 72 deg. 02 min. 39 sec. East, along the  
26 centerline of Persimmon Bayou and the Southwest line of Tract 2, a  
27 distance of 2183.60 feet to an angle point;

1           THENCE South 71 deg. 13 min. 56 sec. East, along the  
2 centerline of Persimmon Bayou and the Southwest line of Tract 2, a  
3 distance of 765.49 feet to a point marking the East corner of the  
4 herein described tract in the Northwest right-of-way line of F. M.  
5 2004, from which point a concrete monument found bears North 43 deg.  
6 30 min. 34 sec. East - 355.35 feet;

7           THENCE South 43 deg. 30 min. 34 sec. West, along the Northwest  
8 line of F. M. 2004, a distance of 3316.44 feet to the PLACE OF  
9 BEGINNING and containing 206.94 acres of land.

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

17           (b) The governor, one of the required recipients, has  
18 submitted the notice and Act to the Texas Commission on  
19 Environmental Quality.

20           (c) The Texas Commission on Environmental Quality has filed  
21 its recommendations relating to this Act with the governor, the  
22 lieutenant governor, and the speaker of the house of  
23 representatives within the required time.

24           (d) All requirements of the constitution and laws of this  
25 state and the rules and procedures of the legislature with respect  
26 to the notice, introduction, and passage of this Act are fulfilled  
27 and accomplished.

1           SECTION 4. (a) If this Act does not receive a two-thirds  
2 vote of all the members elected to each house, Subchapter C, Chapter  
3 7952A, Special District Local Laws Code, as added by Section 1 of  
4 this Act, is amended by adding Section 7952A.0307 to read as  
5 follows:

6           Sec. 7952A.0307. NO EMINENT DOMAIN POWER. The district may  
7 not exercise the power of eminent domain.

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

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