

1-1 By: Hegar (Senate Sponsor - Armbrister) H.B. No. 3578
1-2 (In the Senate - Received from the House May 20, 2005;
1-3 May 20, 2005, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 21, 2005, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 21, 2005, sent to printer.)

1-6 HOUSE COMMITTEE SUBSTITUTE FOR H.B. NO. 3578 RECEIVED IN THE FORM OF
1-7 ENGROSSED RIDER IN LIEU OF A FULL ENGROSSMENT

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of the Fort Bend County Municipal Utility
1-11 District No. 178; providing authority to impose a tax and issue
1-12 bonds; granting the power of eminent domain.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subtitle F, Title 6, Special District Local Laws
1-15 Code, is amended by adding Chapter 8154 to read as follows:

1-16 CHAPTER 8154. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 178

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 8154.001. DEFINITIONS. In this chapter:

1-19 (1) "Board" means the board of directors of the
1-20 district.

1-21 (2) "Director" means a member of the board.

1-22 (3) "District" means the Fort Bend County Municipal
1-23 Utility District No. 178.

1-24 Sec. 8154.002. NATURE OF DISTRICT. The district is a
1-25 municipal utility district in Fort Bend County created under and
1-26 essential to accomplish the purposes of Section 52, Article III,
1-27 and Section 59, Article XVI, Texas Constitution.

1-28 Sec. 8154.003. CONFIRMATION ELECTION REQUIRED. If the
1-29 creation of the district is not confirmed at a confirmation
1-30 election held under Section 8154.023 before September 1, 2007:

1-31 (1) the district is dissolved September 1, 2007,
1-32 except that:

1-33 (A) any debts incurred shall be paid;

1-34 (B) any assets that remain after the payment of
1-35 debts shall be transferred to Fort Bend County; and

1-36 (C) the organization of the district shall be
1-37 maintained until all debts are paid and remaining assets are
1-38 transferred; and

1-39 (2) this chapter expires September 1, 2010.

1-40 Sec. 8154.004. INITIAL DISTRICT TERRITORY. (a) The
1-41 district is initially composed of the territory described by
1-42 Section 2 of the Act creating this chapter.

1-43 (b) The boundaries and field notes contained in Section 2 of
1-44 the Act creating this chapter form a closure. A mistake made in the
1-45 field notes or in copying the field notes in the legislative process
1-46 does not affect:

1-47 (1) the organization, existence, or validity of the
1-48 district;

1-49 (2) the right of the district to impose taxes;

1-50 (3) the validity of the district's bonds, notes, or
1-51 indebtedness; or

1-52 (4) the legality or operation of the district or the
1-53 board.

1-54 [Sections 8154.005-8154.020 reserved for expansion]

1-55 SUBCHAPTER A1. TEMPORARY PROVISIONS

1-56 Sec. 8154.021. TEMPORARY DIRECTORS. (a) On or after
1-57 September 1, 2005, a person who owns land in the district may
1-58 petition the Texas Commission on Environmental Quality to appoint
1-59 as temporary directors the five persons listed in the petition.

1-60 (b) The commission shall appoint as temporary directors the
1-61 persons listed in a petition received by the commission under

2-1 Subsection (a). If the commission receives more than one petition,
 2-2 the commission shall appoint the directors listed in the first
 2-3 petition the commission receives.

2-4 (c) If a temporary director fails to qualify for office, the
 2-5 commission shall appoint a person to fill the vacancy.

2-6 (d) Temporary directors serve until the earlier of:

2-7 (1) the date directors are elected under Section
 2-8 8154.023; or

2-9 (2) the date this chapter expires under Section
 2-10 8154.003.

2-11 Sec. 8154.022. ORGANIZATIONAL MEETING OF TEMPORARY
 2-12 DIRECTORS. As soon as practicable after all the temporary
 2-13 directors have qualified under Section 49.055, Water Code, the
 2-14 temporary directors shall meet at a location in the district
 2-15 agreeable to a majority of the directors. If a location cannot be
 2-16 agreed upon, the meeting shall be at the Fort Bend County
 2-17 Courthouse. At the meeting, the temporary directors shall elect
 2-18 officers from among the temporary directors.

2-19 Sec. 8154.023. CONFIRMATION AND INITIAL DIRECTORS'
 2-20 ELECTION. The temporary directors shall hold an election to
 2-21 confirm the creation of the district and to elect five directors as
 2-22 provided by Section 49.102, Water Code.

2-23 Sec. 8154.024. INITIAL ELECTED DIRECTORS; TERMS. The
 2-24 directors elected under Section 8154.023 shall draw lots to
 2-25 determine which two shall serve until the first regularly scheduled
 2-26 election of directors under Section 8154.052 and which three shall
 2-27 serve until the second regularly scheduled election of directors.

2-28 Sec. 8154.025. EXPIRATION OF SUBCHAPTER. This subchapter
 2-29 expires September 1, 2010.

2-30 [Sections 8154.026-8154.050 reserved for expansion]

2-31 SUBCHAPTER B. BOARD OF DIRECTORS

2-32 Sec. 8154.051. DIRECTORS; TERMS. (a) The district is
 2-33 governed by a board of five directors.

2-34 (b) Directors serve staggered four-year terms.

2-35 Sec. 8154.052. ELECTION OF DIRECTORS. On the uniform
 2-36 election date in May of each even-numbered year, the appropriate
 2-37 number of directors shall be elected.

2-38 [Sections 8154.053-8154.100 reserved for expansion]

2-39 SUBCHAPTER C. POWERS AND DUTIES

2-40 Sec. 8154.101. GENERAL POWERS. The district has all of the
 2-41 rights, powers, privileges, authority, functions, and duties
 2-42 provided by the general law of this state, including Chapters 49 and
 2-43 54, Water Code, applicable to municipal utility districts created
 2-44 under Section 59, Article XVI, Texas Constitution.

2-45 Sec. 8154.102. ROAD PROJECTS. (a) The district may
 2-46 construct, acquire, improve, maintain, or operate macadamized,
 2-47 graveled, or paved roads or turnpikes, or improvements in aid of
 2-48 those roads or turnpikes, inside the district.

2-49 (b) A road project must meet all applicable construction
 2-50 standards, zoning and subdivision requirements, and regulatory
 2-51 ordinances of the municipality or county in whose jurisdiction the
 2-52 district is located.

2-53 (c) The district may not undertake a road project unless
 2-54 each municipality or county in whose jurisdiction the district is
 2-55 located consents by ordinance or resolution.

2-56 Sec. 8154.103. LIMITATION ON USE OF EMINENT DOMAIN. The
 2-57 district may exercise the power of eminent domain outside the
 2-58 district only to acquire an easement necessary for a pipeline that
 2-59 serves the district.

2-60 Sec. 8154.104. DIVISION OF DISTRICT. (a) Except as
 2-61 provided by Subsection (c), the district may be divided into two new
 2-62 districts only if the district:

2-63 (1) has no outstanding bonded debt;

2-64 (2) is not imposing ad valorem taxes; and

2-65 (3) has not annexed land.

2-66 (b) The division procedure is prescribed by Sections 53.030
 2-67 through 53.041, Water Code. Any new district created by the
 2-68 division of the district has all the powers and duties of the
 2-69 district.

3-1 (c) A new district created by the division described by
3-2 Subsection (a) is subject to the restrictions prescribed by
3-3 Subsections (a)(1) and (2). If the new district annexes land, that
3-4 new district may not again divide if the result is that the annexed
3-5 land wholly constitutes one of the districts created by the
3-6 division of the new district.

3-7 Sec. 8154.105. COMPLIANCE WITH MUNICIPAL CONSENT
3-8 ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section
3-9 54.016, Water Code, the district shall comply with all applicable
3-10 requirements of any ordinance or resolution adopted by the city
3-11 council of the City of Fulshear, including an ordinance or
3-12 resolution adopted before September 1, 2005, that consents to the
3-13 creation of the district or to the inclusion of lands within the
3-14 district.

3-15 [Sections 8154.106-8154.150 reserved for expansion]

3-16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-17 Sec. 8154.151. TAX TO REPAY BONDS. The district may impose
3-18 a tax to pay the principal of or interest on bonds issued under
3-19 Section 8154.201.

3-20 Sec. 8154.152. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
3-21 ASSESSMENTS. The district may not impose an impact fee or
3-22 assessment on the property, including the equipment,
3-23 rights-of-way, facilities, or improvements, of:

3-24 (1) an electric utility or a power generation company
3-25 as defined by Section 31.002, Utilities Code;

3-26 (2) a gas utility as defined by Section 101.003 or
3-27 121.001, Utilities Code;

3-28 (3) a telecommunications provider as defined by
3-29 Section 51.002, Utilities Code; or

3-30 (4) a person who provides to the public cable
3-31 television or advanced telecommunications services.

3-32 [Sections 8154.153-8154.200 reserved for expansion]

3-33 SUBCHAPTER E. BONDS

3-34 Sec. 8154.201. AUTHORITY TO ISSUE BONDS AND OTHER
3-35 OBLIGATIONS. (a) The district may issue bonds or other obligations
3-36 as provided by Chapters 49 and 54, Water Code, to finance the
3-37 construction, maintenance, or operation of projects under Section
3-38 8154.101 or 8154.102.

3-39 (b) The district may not issue bonds to finance projects
3-40 authorized by Section 8154.102 unless the issuance is approved by a
3-41 vote of a two-thirds majority of the voters of the district voting
3-42 at an election called for that purpose.

3-43 (c) Bonds or other obligations issued or incurred to finance
3-44 projects authorized by Section 8154.102 may not exceed one-fourth
3-45 of the assessed value of the real property in the district.

3-46 (d) Sections 49.181 and 49.182, Water Code, do not apply to
3-47 a project undertaken by the district under Section 8154.102 or to
3-48 bonds issued by the district to finance the project.

3-49 SECTION 2. The Fort Bend County Municipal Utility District
3-50 No. 178 initially includes all the territory contained in the
3-51 following area:

3-52 TRACT I:

3-53 Two Hundred (200) acre tract off the North end of Section 105, Block
3-54 1 of the H. & T. C. Railway Company Survey in Waller and Fort Bend
3-55 Counties, Texas (Waller County Abstract Being No. 416 and Fort Bend
3-56 County Abstract being No. 261) described as follows:

3-57 BEGINNING at an iron stake, the Northwest corner of Section 105;
3-58 THENCE South 1188 1/2 varas to stake on West line of said Section
3-59 from which a large iron post bears South 59 degrees East 67 3/4
3-60 varas;

3-61 THENCE 950 varas to a stake on the East line of said Section 105;

3-62 THENCE North with the east line of said section 1188 1/2 varas to
3-63 the Northeast corner;

3-64 THENCE West 950 varas to the place of beginning containing 200 acres
3-65 of land, more or less, and being the Fifth Tract described in the
3-66 Deed to William Dorsey Parker by Emma D. Parker, individually and as
3-67 Executrix of J. B. Parker, deceased, and recorded in Volume 163,
3-68 Page 106, Deed Records of Fort Bend County, Texas (but not including
3-69 any other land described in said deed);

4-1 And being the same land as conveyed from W. D. Parker to Chester F.
4-2 Jordan by deed recorded in Volume 252, Page 465, Deed Records of
4-3 Fort Bend County, Texas.

4-4 TRACT II:
4-5 Being a tract of One Hundred and Ten acres (110), more or less, out
4-6 of Section 105, Block 1 of the H. & T. C. Railway Company Survey in
4-7 Waller and Fort Bend Counties, Texas (Waller County Abstract Being
4-8 No. 416 and Fort Bend County Abstract being No. 261) described as
4-9 follows:
4-10 Being 110 acres of land, more or less, bounded thus:
4-11 BEGINNING at a 2" iron pipe in the West line of said survey 5112 ft.
4-12 south of the Northwest corner thereof;
4-13 THENCE East 2640.3 ft. to a stake for corner in the East line of said
4-14 survey;
4-15 THENCE North 1813.8 ft. with the East line of said survey to a stake
4-16 for corner in same;
4-17 THENCE West 2640.3 ft. to a stake for corner in the West line
4-18 survey;
4-19 THENCE South 1813.8 ft. with the west line of said survey to the
4-20 place of beginning, containing 110 acres of land, more or less, and
4-21 being the same land conveyed to W. D. Parker by Lessy C. McDade, et
4-22 al, by deed dated September 9, 1941, filed January 23, 1942, of
4-23 record in Volume 202, Page 84, Deed Records of Fort Bend County,
4-24 Texas;
4-25 And being the same land as conveyed from W. D. Parker to Chester F.
4-26 Jordan by deed recorded in Volume 252, Page 465, Deed Records of
4-27 Fort Bend County, Texas.

4-28 TRACT III:
4-29 All that certain tract of land out of Section No. 105, H. & T. C.
4-30 Railway Company Survey in Fort Bend County, Texas and described by
4-31 metes and bounds as follows:
4-32 BEGINNING at an iron stake, Harvey & McDade's Southwest corner of
4-33 the West line of Section No. 105;
4-34 THENCE South 817 varas to an iron stake for corner;
4-35 THENCE East 950 varas to an iron stake for corner in fence;
4-36 THENCE North 817 varas to an iron stake in fence, Harvey & McDade's
4-37 Southeast corner;
4-38 THENCE West 950 varas to the place of beginning and containing 137
4-39 1/2 acres of land more or less,
4-40 And being the same identical property conveyed from W. S. Cochran,
4-41 Jr, to Chester Jordan in a deed recorded in Volume 208, Page 635,
4-42 Deed Records of Fort Bend County, Texas.

4-43 TRACT IV:
4-44 All of that certain tract of land known and described as 160 acres
4-45 off of the north end of H. & T. C. Railroad Section No. 106 in Fort
4-46 Bend County, Texas, and described by metes and bounds as follows:
4-47 BEGINNING at a 3/4" iron pipe at the northeast corner of H. & T. C.
4-48 Railroad Section No 106, the same being the northwest corner of the
4-49 J. D. Vermillion One-third League, said iron pipe being 8 feet South
4-50 and 20 feet South 89 degrees 40 minutes west from a northeast fence
4-51 corner of fences enclosing the property;
4-52 THENCE south, along the east line of said Section 106 and the west
4-53 line of the J. D. Vermillion One-third League, at 600 feet pass the
4-54 northwest corner of a 10 acre tract, at 2002.8 feet the southwest
4-55 corner of said 10 acre tract, in all 2640 feet to an iron pipe, the
4-56 southeast corner of this 160 acres, and 25.2 feet South 89 degrees
4-57 40 minutes west from another iron pipe set under fence;
4-58 THENCE south 89 degrees 40 minutes west 2640 feet to an iron pipe in
4-59 a rice field;
4-60 THENCE north at 2633 feet cross east and west fence, in all 2640
4-61 feet to an iron pipe on levee,
4-62 THENCE north 89 degrees 40 minutes east, at 86.6 feet a fence corner
4-63 and angle point 7 feet right, at 418.2 feet an angle point in fence
4-64 14 feet left, in all 2640 feet to the place of beginning, containing
4-65 160 acres of land;
4-66 And being the same land conveyed by F. M. Robinson to Ethan A.
4-67 Wilmot by deed dated September 17, 1904, and recorded in Volume 29,
4-68 Page 197, et seq., of the Deed Records of Fort Bend County, Texas.

5-1 TRACT V:
5-2 200 acres of land out of and a part of the Joseph D. Vermillion Survey
5-3 in said Fort Bend County, Texas described by metes and bounds as
5-4 follows:
5-5 BEGINNING at a stake set in the W. line of the said Joseph D.
5-6 Vermillion Survey and 1960 vrs N. from its S. W. Corner
5-7 THENCE N. along said W. boundary line 1124 vrs or 3122.2 ft. to a
5-8 stake in N. W. corner of the 200 acres tract herein conveyed;
5-9 THENCE E. 1006 Vrs or 2794.44 ft. to a point for the N.E. corner of
5-10 the tract herein conveyed;
5-11 THENCE S. parallel with the said W. line of the Joseph D. Vermillion
5-12 Survey 1124 vrs or 3122.2 ft. to a point for the S. E. corner of the
5-13 200 acre tract herein conveyed;
5-14 THENCE W. 2794.44 t. to the place of beginning and containing 200
5-15 acres of land; being the same 200 acres of land conveyed to George
5-16 F. Fluke by J. A. Friedman and Eugene Mills by Warranty Deed dated
5-17 April 23, 1904 and recorded in Deed Book 28, Pages 164 and 165 of the
5-18 Deed Records of Fort Bend County, Texas.
5-19 TRACT VI:
5-20 75.856 acres of land out of the Joseph D. Vermillion Survey,
5-21 Abstract 339, Fort Bend County, Texas, described by metes and
5-22 bounds as follows:
5-23 BEGINNING at a one inch iron pipe set for the Northwest corner of
5-24 the Joseph D. Vermillion Survey, and also being the Northwest
5-25 corner of the herein described 75 856 acre tract;
5-26 THENCE East, 1,910.87 feet along the North line of the Joseph D.
5-27 Vermillion Survey, Abstract 339, to a one inch pipe set for the
5-28 Northeast corner of this 75.856 acre tract;
5-29 THENCE South, 2,002.77 feet to a one inch iron pipe set in a fence
5-30 line for the Southeast corner of this 75.856 acre tract;
5-31 THENCE West, 1,600.34 feet along a fence line to a one inch iron
5-32 pipe set for the most Southerly West corner of this 75.856 acre
5-33 tract, and also being the Southeast corner of the Chester Jordan ten
5-34 acre tract;
5-35 THENCE North 1,402.77 feet with the East line of said ten acre
5-36 tract, pass a one inch iron pipe set for the Northeast corner of
5-37 said ten acre tract and also being the Southeast corner of a 2 acre
5-38 tract, continuing along same course a total distance of 1,683.32
5-39 feet to a one inch iron pipe set for an interior corner of this
5-40 75.856 acre tract, and also being the Northeast corner of said 2
5-41 acre tract;
5-42 THENCE West, 310.53 feet with the North line of said 2 acre tract to
5-43 a one inch iron pipe set in the West line of the Joseph D. Vermillion
5-44 Survey, Abstract 339, being the Northwest corner of said 2 acre
5-45 tract;
5-46 THENCE North, 319.45 feet along the West line of the Joseph D
5-47 Vermillion Survey, Abstract 339, to the place of beginning and
5-48 containing 75.856 acres of land, more or less,
5-49 And being the same and identical land conveyed from McMillian
5-50 Farms, Inc. to Chester Jordan by General Warranty Deed recorded in
5-51 Volume 416, Page 572, Deed Records of Fort Bend County, Texas.
5-52 TRACT VII:
5-53 The following described property, to-wit:
5-54 Being a ten (10) acre tract of land out of the J. D. Vermillion
5-55 one-third (1/3) League Survey, Patent No. 197, Volume 21, situated
5-56 in Fort Bend County, Texas and being described by metes and bounds
5-57 as follows.
5-58 BEGINNING at a stake set in the West line of at the R. D. MacDonald
5-59 179.6 acre tract recorded in Volume 85, Pages 342-344, Deed Records
5-60 of Fort Bend County, Texas, off of the West side of Lot number four
5-61 (4) of the J. D. Vermillion 1/3 League Survey, Patent Number 197,
5-62 Volume 21, situated in Fort Bend County, Texas, 600 feet South of
5-63 its N. W. corner,
5-64 THENCE South following the West line of the R. D. MacDonald 179.6
5-65 acre tract in said survey 1402.8 feet to a stake for corner and same
5-66 being the S. W corner of said R D. MacDonald 179.6 acre tract;
5-67 THENCE East following the South line of the said R. D. MacDonald 179
5-68 6 acre tract in said survey 311.14 feet to a stake for corner;
5-69 THENCE North parallel with the West line of the said R D. MacDonald

6-1 179.6 acre tract in said survey 1402.8 feet to a stake for corner;
6-2 THENCE West parallel with the South line of the said R D. MacDonald
6-3 1796 acre tract in said survey 311.14 feet to the place of beginning
6-4 and containing ten (10) acres of land
6-5 And being the same identical property conveyed from Sam Schwartz to
6-6 Chester F. Jordan in a deed recorded in Volume 281, Page 207, Deed
6-7 Records of Fort Bend County, Texas.

6-8 TRACT VIII:

6-9 The following described real property situated in Fort Bend, Texas,
6-10 to-wit:

6-11 COMMENCING at the Northwest corner of the J. D. Vermillion Survey,
6-12 Same being the Northwest corner of the Chester F. Jordan 75.856 Acre
6-13 Tract, (Volume 416, Page 572, Deed Records) Fort Bend County,
6-14 Texas;

6-15 THENCE, South along the West line of the Chester F. Jordan 75.856
6-16 Acre Tract, 319.45 feet to the Northwest corner and Place of
6-17 Beginning of the herein described 2 Acre Tract;

6-18 THENCE, continuing South, for a distance of 280.55 feet to a point
6-19 for the Southwest corner of this 2.0 acre tract same being the
6-20 Northwest corner of a certain 10.0 Acre Tract, owned by Chester F
6-21 Jordan,

6-22 THENCE, East along the common line of this 2.0 Acre Tract and the
6-23 above mentioned Chester F. Jordan 10.0 Acre Tract, 310.53 feet to a
6-24 point for the Southeast corner, of the aforementioned 10.0 Acre
6-25 Tract and on the West line of the aforementioned 75.856 Acre Tract;

6-26 THENCE, North along the common line of this 2.0 Acre Tract and the
6-27 aforementioned 75.856 Acre Tract, 280.55 feet to a point for the
6-28 Northeast corner of this 2 0 Acre Tract, same being an interior
6-29 corner of the aforementioned 75.856 Acre Tract;

6-30 THENCE. West along a line common to this 2.0 Acre Tract and the 75
6-31 856 Acre Tract, 310.53 feet to the Place of Beginning and containing
6-32 2 0 Acres of Land,

6-33 And being the same & identical property conveyed by Don F. McMillian
6-34 to Chester F. Jordan in deed recorded in Volume 523, Page 545, Deed
6-35 Records of Fort Bend County, Texas.

6-36 SECTION 3. (a) The legal notice of the intention to
6-37 introduce this Act, setting forth the general substance of this
6-38 Act, has been published as provided by law, and the notice and a
6-39 copy of this Act have been furnished to all persons, agencies,
6-40 officials, or entities to which they are required to be furnished
6-41 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6-42 Government Code.

6-43 (b) The governor, one of the required recipients, has
6-44 submitted the notice and Act to the Texas Commission on
6-45 Environmental Quality.

6-46 (c) The Texas Commission on Environmental Quality has filed
6-47 its recommendations relating to this Act with the governor, the
6-48 lieutenant governor, and the speaker of the house of
6-49 representatives within the required time.

6-50 (d) All requirements of the constitution and laws of this
6-51 state and the rules and procedures of the legislature with respect
6-52 to the notice, introduction, and passage of this Act are fulfilled
6-53 and accomplished.

6-54 SECTION 4. This Act takes effect September 1, 2005.

6-55 * * * * *