

1-1 By: Murphy (Senate Sponsor - Patrick) H.B. No. 3988  
1-2 (In the Senate - Received from the House May 10, 2007;  
1-3 May 14, 2007, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 18, 2007, reported favorably by  
1-5 the following vote: Yeas 4, Nays 0; May 18, 2007, sent to  
1-6 printer.)

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to the creation of the Harris County Municipal Utility  
1-10 District No. 438; providing authority to impose a tax and issue  
1-11 bonds; granting the power of eminent domain.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
1-14 Code, is amended by adding Chapter 8234 to read as follows:

1-15 CHAPTER 8234. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 438

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 8234.001. DEFINITIONS. In this chapter:

1-18 (1) "Board" means the district's board of directors.

1-19 (2) "Director" means a board member.

1-20 (3) "District" means the Harris County Municipal  
1-21 Utility District No. 438.

1-22 Sec. 8234.002. NATURE OF DISTRICT. (a) The district is a  
1-23 municipal utility district created under and essential to  
1-24 accomplish the purposes of Section 59, Article XVI, Texas  
1-25 Constitution.

1-26 (b) The district, to the extent authorized by Section  
1-27 8234.103 and Section 52, Article III, Texas Constitution, has road  
1-28 powers.

1-29 Sec. 8234.003. CONFIRMATION ELECTION REQUIRED. The board  
1-30 shall hold an election to confirm the creation of the district as  
1-31 provided by Section 49.102, Water Code.

1-32 Sec. 8234.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. All  
1-33 land and other property in the district will benefit from the  
1-34 improvements and services to be provided by the district.

1-35 Sec. 8234.005. INITIAL DISTRICT TERRITORY. (a) The  
1-36 district is initially composed of the territory described by  
1-37 Section 2 of the Act creating this chapter.

1-38 (b) The boundaries and field notes contained in Section 2 of  
1-39 the Act creating this chapter form a closure. A mistake in the  
1-40 field notes or in copying the field notes in the legislative process  
1-41 does not affect the district's:

1-42 (1) organization, existence, or validity;

1-43 (2) right to issue any type of bond for a purpose for  
1-44 which the district is created or to pay the principal of and  
1-45 interest on the bond;

1-46 (3) right to impose an assessment or tax; or

1-47 (4) legality or operation.

1-48 [Sections 8234.006-8234.050 reserved for expansion]

1-49 SUBCHAPTER B. BOARD OF DIRECTORS

1-50 Sec. 8234.051. GOVERNING BODY; TERMS. (a) The district is  
1-51 governed by a board of five elected directors.

1-52 (b) Directors serve staggered four-year terms.

1-53 Sec. 8234.052. INITIAL DIRECTORS. (a) The initial board  
1-54 consists of:

1-55 (1) Shanna Martinez;

1-56 (2) Amelia Culwell;

1-57 (3) Gavin Cunningham;

1-58 (4) Howard F. Barrett-Smith; and

1-59 (5) Linda Brown.

1-60 (b) Unless the initial board agrees otherwise, the initial  
1-61 directors shall draw lots to determine which two shall serve until  
1-62 the first regularly scheduled election of directors and which three  
1-63 shall serve until the second regularly scheduled election of  
1-64 directors.

(c) This section expires September 1, 2014.

[Sections 8234.053-8234.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8234.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8234.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8234.103. ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may finance, construct, or acquire a road project as provided by this section.

(b) The district shall employ or contract with a licensed engineer to certify whether a proposed road project meets the criteria for a thoroughfare, arterial, or collector road of:

(1) a county in whose jurisdiction the proposed road project is located; or

(2) a municipality in whose corporate limits or extraterritorial jurisdiction the proposed road project is located.

(c) The district may finance, construct, or acquire a road that has been certified by the licensed engineer as a thoroughfare, arterial, or collector road, or any improvements in aid of the certified road.

(d) A road project must meet all applicable standards, regulations, ordinances, or orders of:

(1) each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located; and

(2) if the road project is not located in the corporate limits of a municipality, each county in which the road project is located.

(e) The district may, with the consent of the municipality or county, convey a completed road project to:

(1) a municipality in whose corporate limits or extraterritorial jurisdiction the road project is located; or

(2) a county in which the road project is located.

Sec. 8234.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution, adopted by the governing body of a municipality under Section 54.016, Water Code, that consents to the creation of the district or to the inclusion of land in the district.

[Sections 8234.105-8234.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8234.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by revenue or contract payments from a source other than ad valorem taxation.

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

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

Sec. 8234.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8234.151, the district may impose an operation and maintenance tax on taxable property in the district as provided by Section 49.107, Water Code.

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

[Sections 8234.153-8234.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8234.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees,

3-1 revenue, grants, or other district money, or any combination of  
3-2 those sources, to pay for any authorized district purpose.

3-3 Sec. 8234.202. BONDS FOR ROAD PROJECTS. At the time of  
3-4 issuance, the total principal amount of a bond, note, or other  
3-5 obligation issued or incurred to finance a road project may not  
3-6 exceed one-fourth of the assessed value of real property in the  
3-7 district according to the most recent certified tax appraisal roll  
3-8 for Harris County.

3-9 Sec. 8234.203. TAXES FOR BONDS AND OTHER OBLIGATIONS. At  
3-10 the time bonds or other obligations payable wholly or partly from ad  
3-11 valorem taxes are issued:

3-12 (1) the board shall impose a continuing direct annual  
3-13 ad valorem tax, without limit as to rate or amount, for each year  
3-14 that all or part of the bonds are outstanding; and

3-15 (2) the district annually shall impose an ad valorem  
3-16 tax on all taxable property in the district in an amount sufficient  
3-17 to:

3-18 (A) pay the interest on the bonds or other  
3-19 obligations as the interest becomes due;

3-20 (B) create a sinking fund for the payment of the  
3-21 principal of the bonds or other obligations when due or the  
3-22 redemption price at any earlier required redemption date; and

3-23 (C) pay the expenses of imposing the taxes.

3-24 SECTION 2. The Harris County Municipal Utility District No.  
3-25 438 initially includes all the territory contained in the following  
3-26 area:

3-27 Being 643.03 acres of land located in the J. A. Arnold Survey,  
3-28 Section 28, Abstract No. 1378, Harris County, Texas and being a  
3-29 portion of that land described in a conveyance to Margaret Rogers  
3-30 recorded in Volume 1096, Page 758, Harris County Deed Records and  
3-31 being all that land owned by Sunny Lee Matzinger and John L.  
3-32 Mazinger and being described in a conveyance recorded under Harris  
3-33 County Clerk's File Nos. J368304, further being all that land  
3-34 described as 638.41 acres in a conveyance to Fry Road Venture, L.P.  
3-35 recorded under Harris County Clerk's File No. Z078090, said 643.03  
3-36 acre tract being more particularly described by metes and bounds as  
3-37 follows:

3-38 BEGINNING at a disturbed 1 inch iron pipe found making the common  
3-39 Southwest corner of the J. A. Arnold Survey, Section 22, Abstract  
3-40 No. 1377, same being that tract described as 640 acres in a  
3-41 conveyances to Michael Joseph Matzinger and Margaret Allison  
3-42 Matzinger and recorded under Harris County Clerk's File Nos.  
3-43 K479364 and K479365 respectively and also described in a conveyance  
3-44 to Fry Road Venture, L.P. recorded under Harris County Clerk's File  
3-45 no. Z078087, said 1 inch iron pipe also being the common Northwest  
3-46 corner of the W. L. Mounts Survey, Section 20, Abstract No. 1376 and  
3-47 a tract described as 408.805 acres in a conveyance to C. E. Freeman,  
3-48 et ux recorded under Harris County Clerk's File No. E384885, same  
3-49 being the common Northeast corner of the H. & T. C. R. R. Survey,  
3-50 Section 29, Abstract No. 445 and METZLER'S SUBDIVISION. a  
3-51 subdivision per plat or map recorded in Volume 500, Page, 235,  
3-52 Harris County Deed Records, same further being the common Southeast  
3-53 corner said Section 28 and the herein described tract;

3-54 THENCE S 87°45'10"W, along and with the North line of said METZLER'S  
3-55 SUBDIVISION, same being the South line of said Section 287, at a  
3-56 distance of 2640.00 feet pass the Northeast corner of a tract  
3-57 described as 320 acres in a conveyance to J. J. Sweeney and recorded  
3-58 in Volume 583, Page 18 of the Harris County Deed Records, same being  
3-59 the Northwest corner of said METZLER'S SUBDIVISION, continuing  
3-60 along and with the North line of said 320 acre tract, same further  
3-61 being the South line of said Section 28, in all, a total distance of  
3-62 5271.07 feet to a 5/8-inch iron rod w/"Brown & Gay" cap found  
3-63 marking the Northeast corner of the W. I. Williamson Survey,  
3-64 Section 50, Abstract No. 1592, same being the common Southeast  
3-65 corner of the H. & T. C. R. R. Survey, Section 51, Abstract No. 442  
3-66 and a tract described as 865.361 acres in a conveyance to Harris  
3-67 County and recorded under Harris County Clerk's File No. V264935,  
3-68 same further being the common Southwest corner of said Section 28  
3-69 and the herein described tract from which a 1/2 inch iron rod found

4-1 in the pavement of Longenbaugh Road marking the common South corner  
 4-2 of said Section 50 and said Section 29 bears S 02°05'01" E, 5267.26  
 4-3 feet;  
 4-4 THENCE N 02°05'01" W, along and with the East line of said 865.361  
 4-5 acre tract, same being the West line of said Section 28, at a  
 4-6 distance of 3045.90 feet pass a point from which a 5/8 inch iron rod  
 4-7 with "RPLS 2085" cap found marking the Northeast corner of a tract  
 4-8 described as 97.111 acres in conveyances to Houston Lighting and  
 4-9 Power and recorded under Harris County Clerk's File Nos. H330782  
 4-10 and H330800 bears S 87°22'07" W, 300.00 feet, continuing, in all, a  
 4-11 total distance of 5309.17 feet to a 5/8 inch iron rod with "Brown &  
 4-12 Gay" cap found in the common South line of the Mrs. M. L Jones  
 4-13 Survey, Section 54, Abstract No. 1338 and a tract described as  
 4-14 Parcel A, Tract 3 and being 821.09 acres in a conveyance to  
 4-15 Rouse-Houston, LP recorded under Harris County Clerk's File No.  
 4-16 W677033 marking the common Northeast corner of said Section 51 and  
 4-17 said 865.361 acre tract, same being the common Northwest corner of  
 4-18 said Section 28 and the herein described tract;  
 4-19 THENCE N 87°54'24" E, along and with the South line of said 821.09  
 4-20 acre tract, same being the North line of said Section 28, a distance  
 4-21 of 19.10 feet to a 1-1/4 inch iron pipe found marking the common  
 4-22 Southeast corner of said Section 54 and said 865.361 acre tract,  
 4-23 same being the common Southwest corner of the H. & T. C. R. R.  
 4-24 Survey, Section 27, Abstract No. 426 and a tract described as  
 4-25 1,119.86 acres in a conveyance to Rouse-Houston, LP recorded under  
 4-26 Harris County Clerk's File No. Y079208, same further being an angle  
 4-27 point in the North line of the herein described tract;  
 4-28 THENCE N 87°56'34" E, along and with the South line of said 1,119.86  
 4-29 acre tract, same being the North line of said Section 28, a distance  
 4-30 of 5278.98 feet to a 5/8-inch iron rod w/"Brown & Gay" cap found  
 4-31 marking the common Northwest corner of said Section 22 and said  
 4-32 638.41 acre tract, same being the Southwest corner of the H. & T. C.  
 4-33 R. R. Survey, Section 23, Abstract No. 425, same being the Southeast  
 4-34 corner of said Section 27, same further being the common Northeast  
 4-35 corner of said Section 28 and the herein described tract;  
 4-36 THENCE S 01°47'27" E, along and with the West line of said 638.41  
 4-37 acre tract, same being the East line of said Section 28, a distance  
 4-38 of 5291.75 feet to the POINT OF BEGINNING and containing 643.03  
 4-39 acres of land.

4-40 SECTION 3. (a) The legal notice of the intention to  
 4-41 introduce this Act, setting forth the general substance of this  
 4-42 Act, has been published as provided by law, and the notice and a  
 4-43 copy of this Act have been furnished to all persons, agencies,  
 4-44 officials, or entities to which they are required to be furnished  
 4-45 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
 4-46 Government Code.

4-47 (b) The governor, one of the required recipients, has  
 4-48 submitted the notice and Act to the Texas Commission on  
 4-49 Environmental Quality.

4-50 (c) The Texas Commission on Environmental Quality has filed  
 4-51 its recommendations relating to this Act with the governor, the  
 4-52 lieutenant governor, and the speaker of the house of  
 4-53 representatives within the required time.

4-54 (d) All requirements of the constitution and laws of this  
 4-55 state and the rules and procedures of the legislature with respect  
 4-56 to the notice, introduction, and passage of this Act are fulfilled  
 4-57 and accomplished.

4-58 SECTION 4. This Act takes effect immediately if it receives  
 4-59 a vote of two-thirds of all the members elected to each house, as  
 4-60 provided by Section 39, Article III, Texas Constitution. If this  
 4-61 Act does not receive the vote necessary for immediate effect, this  
 4-62 Act takes effect September 1, 2007.

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