

1-1 By: Zerwas (Senate Sponsor - Hegar) H.B. No. 1597
1-2 (In the Senate - Received from the House May 13, 2009;
1-3 May 14, 2009, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 22, 2009, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Fort Bend County Municipal Utility
1-9 District No. 202; providing authority to impose a tax and issue
1-10 bonds; granting a limited power of eminent domain.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle F, Title 6, Special District Local Laws
1-13 Code, is amended by adding Chapter 8328 to read as follows:

1-14 CHAPTER 8328. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 202

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 8328.001. DEFINITIONS. In this chapter:

1-17 (1) "Board" means the district's board of directors.

1-18 (2) "Director" means a board member.

1-19 (3) "District" means the Fort Bend County Municipal
1-20 Utility District No. 202.

1-21 Sec. 8328.002. NATURE OF DISTRICT. The district is a
1-22 municipal utility district created under Section 59, Article XVI,
1-23 Texas Constitution.

1-24 Sec. 8328.003. CONFIRMATION AND DIRECTORS' ELECTION
1-25 REQUIRED. The temporary directors shall hold an election to
1-26 confirm the creation of the district and to elect five permanent
1-27 directors as provided by Section 49.102, Water Code.

1-28 Sec. 8328.004. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-29 (a) The district is created to serve a public purpose and benefit.

1-30 (b) The district is created to accomplish the purposes of:

1-31 (1) a municipal utility district as provided by
1-32 general law and Section 59, Article XVI, Texas Constitution; and

1-33 (2) Section 52, Article III, Texas Constitution, that
1-34 relate to the construction, acquisition, or improvement of
1-35 macadamized, graveled, or paved roads described by Section 54.234,
1-36 Water Code, or improvements, including storm drainage, in aid of
1-37 those roads.

1-38 Sec. 8328.005. INITIAL DISTRICT TERRITORY. (a) The
1-39 district is initially composed of the territory described by
1-40 Section 2 of the Act creating this chapter.

1-41 (b) The boundaries and field notes contained in Section 2 of
1-42 the Act creating this chapter form a closure. A mistake made in the
1-43 field notes or in copying the field notes in the legislative process
1-44 does not affect the district's:

1-45 (1) organization, existence, or validity;

1-46 (2) right to issue any type of bond for the purposes
1-47 for which the district is created or to pay the principal of and
1-48 interest on a bond;

1-49 (3) right to impose a tax; or

1-50 (4) legality or operation.

1-51 [Sections 8328.006-8328.050 reserved for expansion]

1-52 SUBCHAPTER B. BOARD OF DIRECTORS

1-53 Sec. 8328.051. GOVERNING BODY; TERMS. (a) The district is
1-54 governed by a board of five elected directors.

1-55 (b) Except as provided by Section 8328.052, directors serve
1-56 staggered four-year terms.

1-57 Sec. 8328.052. TEMPORARY DIRECTORS. (a) On or after the
1-58 effective date of the Act creating this chapter, the owner or owners
1-59 of a majority of the assessed value of the real property in the
1-60 district may submit a petition to the Texas Commission on
1-61 Environmental Quality requesting that the commission appoint as
1-62 temporary directors the five persons named in the petition. The
1-63 commission shall appoint as temporary directors the five persons
1-64 named in the petition.

2-1 (b) Temporary directors serve until the earlier of:
2-2 (1) the date permanent directors are elected under
2-3 Section 8328.003; or
2-4 (2) the fourth anniversary of the effective date of
2-5 the Act creating this chapter.

2-6 (c) If permanent directors have not been elected under
2-7 Section 8328.003 and the terms of the temporary directors have
2-8 expired, successor temporary directors shall be appointed or
2-9 reappointed as provided by Subsection (d) to serve terms that
2-10 expire on the earlier of:

2-11 (1) the date permanent directors are elected under
2-12 Section 8328.003; or
2-13 (2) the fourth anniversary of the date of the
2-14 appointment or reappointment.

2-15 (d) If Subsection (c) applies, the owner or owners of a
2-16 majority of the assessed value of the real property in the district
2-17 may submit a petition to the commission requesting that the
2-18 commission appoint as successor temporary directors the five
2-19 persons named in the petition. The commission shall appoint as
2-20 successor temporary directors the five persons named in the
2-21 petition.

2-22 [Sections 8328.053-8328.100 reserved for expansion]

2-23 SUBCHAPTER C. POWERS AND DUTIES

2-24 Sec. 8328.101. GENERAL POWERS AND DUTIES. The district has
2-25 the powers and duties necessary to accomplish the purposes for
2-26 which the district is created.

2-27 Sec. 8328.102. MUNICIPAL UTILITY DISTRICT POWERS AND
2-28 DUTIES. The district has the powers and duties provided by the
2-29 general law of this state, including Chapters 49 and 54, Water Code,
2-30 applicable to municipal utility districts created under Section 59,
2-31 Article XVI, Texas Constitution.

2-32 Sec. 8328.103. AUTHORITY FOR ROAD PROJECTS. (a) Under
2-33 Section 52, Article III, Texas Constitution, the district may
2-34 design, acquire, construct, finance, issue bonds for, improve, and
2-35 convey to this state, a county, or a municipality for operation and
2-36 maintenance macadamized, graveled, or paved roads described by
2-37 Section 54.234, Water Code, or improvements, including storm
2-38 drainage, in aid of those roads.

2-39 (b) The district may exercise the powers provided by this
2-40 section without submitting a petition to or obtaining approval from
2-41 the Texas Commission on Environmental Quality as required by
2-42 Section 54.234, Water Code.

2-43 Sec. 8328.104. APPROVAL OF ROAD PROJECT. (a) The district
2-44 may not undertake a road project authorized by Section 8328.103
2-45 unless:

2-46 (1) each municipality or county that will operate and
2-47 maintain the road has approved the plans and specifications of the
2-48 road project, if a municipality or county will operate and maintain
2-49 the road; or

2-50 (2) the Texas Transportation Commission has approved
2-51 the plans and specifications of the road project, if the state will
2-52 operate and maintain the road.

2-53 (b) Except as provided by Subsection (a), the district is
2-54 not required to obtain approval from the Texas Transportation
2-55 Commission to design, acquire, construct, finance, issue bonds for,
2-56 improve, or convey a road project.

2-57 Sec. 8328.105. LIMITATION ON USE OF EMINENT DOMAIN. The
2-58 district may not exercise the power of eminent domain outside the
2-59 district to acquire a site or easement for:

2-60 (1) a road project authorized by Section 8328.103; or
2-61 (2) a recreational facility as defined by Section
2-62 49.462, Water Code.

2-63 [Sections 8328.106-8328.150 reserved for expansion]

2-64 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

2-65 Sec. 8328.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
2-66 district may issue, without an election, bonds and other
2-67 obligations secured by:

2-68 (1) revenue other than ad valorem taxes; or
2-69 (2) contract payments described by Section 8328.153.

3-1 (b) The district must hold an election in the manner
3-2 provided by Chapters 49 and 54, Water Code, to obtain voter approval
3-3 before the district may impose an ad valorem tax or issue bonds
3-4 payable from ad valorem taxes.

3-5 (c) The district may not issue bonds payable from ad valorem
3-6 taxes to finance a road project unless the issuance is approved by a
3-7 vote of a two-thirds majority of the district voters voting at an
3-8 election held for that purpose.

3-9 Sec. 8328.152. OPERATION AND MAINTENANCE TAX. (a) If
3-10 authorized at an election held under Section 8328.151, the district
3-11 may impose an operation and maintenance tax on taxable property in
3-12 the district in accordance with Section 49.107, Water Code.

3-13 (b) The board shall determine the tax rate. The rate may not
3-14 exceed the rate approved at the election.

3-15 Sec. 8328.153. CONTRACT TAXES. (a) In accordance with
3-16 Section 49.108, Water Code, the district may impose a tax other than
3-17 an operation and maintenance tax and use the revenue derived from
3-18 the tax to make payments under a contract after the provisions of
3-19 the contract have been approved by a majority of the district voters
3-20 voting at an election held for that purpose.

3-21 (b) A contract approved by the district voters may contain a
3-22 provision stating that the contract may be modified or amended by
3-23 the board without further voter approval.

3-24 [Sections 8328.154-8328.200 reserved for expansion]

3-25 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-26 Sec. 8328.201. AUTHORITY TO ISSUE BONDS AND OTHER
3-27 OBLIGATIONS. The district may issue bonds or other obligations
3-28 payable wholly or partly from ad valorem taxes, impact fees,
3-29 revenue, contract payments, grants, or other district money, or any
3-30 combination of those sources, to pay for any authorized district
3-31 purpose.

3-32 Sec. 8328.202. TAXES FOR BONDS. At the time the district
3-33 issues bonds payable wholly or partly from ad valorem taxes, the
3-34 board shall provide for the annual imposition of a continuing
3-35 direct ad valorem tax, without limit as to rate or amount, while all
3-36 or part of the bonds are outstanding as required and in the manner
3-37 provided by Sections 54.601 and 54.602, Water Code.

3-38 Sec. 8328.203. BONDS FOR ROAD PROJECTS. At the time of
3-39 issuance, the total principal amount of bonds or other obligations
3-40 issued or incurred to finance road projects and payable from ad
3-41 valorem taxes may not exceed one-fourth of the assessed value of the
3-42 real property in the district.

3-43 SECTION 2. The Fort Bend County Municipal Utility District
3-44 No. 202 initially includes all the territory contained in the
3-45 following area:

3-46 Being 770.130 acres of land located in the Randolph Foster
3-47 League, Abstract 28, the Isaac N. Charles League, Abstract 17 and
3-48 the Nathan Brookshire League, Abstract 14, Fort Bend County, Texas,
3-49 more particularly being a portion of that certain called 672.719
3-50 acre tract conveyed to NBI Properties, Inc., by instruments of
3-51 record in Volume 1005, Page 102, Official Public Records, of Waller
3-52 County (W.C.O.P.R.) and File No. 2006149078, Official Public
3-53 Records, of Fort Bend County (F.B.C.O.P.R.), being a portion of
3-54 that certain called 152.516 acre tract conveyed to NBI Properties,
3-55 Inc., by instruments of record in Volume 1005, Page 037,
3-56 W.C.O.P.R., and File No. 2006149075, F.B.C.O.P.R., being all of
3-57 that certain called 508.581 acre tract conveyed to NBI Properties,
3-58 Inc., by instrument of record in File No. 2006124571, F.B.C.O.P.R.,
3-59 and being all of that certain called 35.587 acre tract conveyed to
3-60 Mullins Ranch, Inc., by instrument of record in File No.
3-61 2007044092, F.B.C.O.P.R., said 770.130 acres being more
3-62 particularly described in three (3) parts by metes and bounds as
3-63 follows (all bearings are assumed);

3-64 PART ONE

3-65 BEGINNING at the southwest corner of said 672.719 acre tract,
3-66 same being on the north right-of-way line of Hunt Road and on the
3-67 east right-of-way line of F.M. 1489 (called 80 feet wide);

3-68 Thence, with the common line of said 672.719 acre tract and
3-69 said F.M. 1489, North 02° 49' 09" West (called North 02° 21' 50"

4-1 West), 1257.30 feet to a point for corner on the common line of said
4-2 Fort Bend County and Waller County;
4-3 Thence, with said common county line, North 87° 55' 15" East,
4-4 5340.78 feet to a point for corner in the centerline of Bessies
4-5 Creek;
4-6 Thence, leaving said county line and with the centerline
4-7 meanders of Bessies Creek, the following five (5) courses:
4-8 1) South 21° 10' 25" West, 193.50 feet to a point for corner;
4-9 2) South 01° 41' 05" East, 209.65 feet to a point for corner;
4-10 3) South 49° 34' 26" East, 1093.06 feet to a point for
4-11 corner;
4-12 4) South 17° 02' 57" East, 483.52 feet to a point for corner;
4-13 5) South 04° 24' 25" West, 500.20 feet to the southeast
4-14 corner of said 35.587 acre tract, same being on the north line of
4-15 said Hunt Road;
4-16 Thence, with the common line of said 35.587 acre tract and
4-17 said Hunt Road, the following twelve (12) courses:
4-18 1) North 57° 28' 12" West, 170.42 feet to a point for corner;
4-19 2) South 86° 46' 42" West (called South 86° 46' 42" West),
4-20 1453.95 feet to a point for corner;
4-21 3) North 80° 00' 33" West, 126.25 feet to a point for corner;
4-22 4) North 65° 43' 54" West, 120.23 feet to a point for corner;
4-23 5) North 46° 00' 57" West, 108.95 feet to a point for corner;
4-24 6) North 45° 18' 11" West, 228.45 feet to a point for corner;
4-25 7) North 51° 58' 08" West, 109.18 feet to a point for corner;
4-26 8) North 55° 24' 54" West, 101.29 feet to a point for corner;
4-27 9) North 58° 46' 16" West, 169.17 feet to a point for corner;
4-28 10) North 67° 51' 54" West, 263.68 feet to a point for
4-29 corner;
4-30 11) North 59° 04' 07" West, 33.61 feet to a point for corner;
4-31 12) North 52° 16' 47" West, 156.79 feet to the west corner of
4-32 said 35.587 acre tract and on the south line of said 152.516 acre
4-33 tract;
4-34 Thence, with the south lines of said 152.516 and 672.719 acre
4-35 tracts and the north line of said Hunt Road, the following five (5)
4-36 courses:
4-37 1) South 86° 44' 32" West, 1067.90 feet to a point for
4-38 corner;
4-39 2) South 86° 47' 14" West, 508.38 feet to a point for corner;
4-40 3) South 88° 52' 26" West, 432.42 feet to a point for corner;
4-41 4) North 71° 55' 41" West, 15.88 feet to a point for corner;
4-42 5) South 88° 18' 43" West, 1345.31 feet to the POINT OF
4-43 BEGINNING and containing 199.898 acres of land.
4-44 PART TWO
4-45 COMMENCING for reference at the northeast corner of said
4-46 672.719 acre tract, same being the northwest corner of said Nathan
4-47 Brookshire League, and on the common line of said Fort Bend County
4-48 and said Waller County;
4-49 Thence, with the east line of said 672.719 acre tract, the
4-50 west line of said Nathan Brookshire League and with said common
4-51 county line, South 03° 51' 34" West, 1455.67 feet to a point;
4-52 Thence, leaving the east line of said 672.719 acre tract and
4-53 continuing with the west line of said Nathan Brookshire League and
4-54 continuing with said common county line, South 03° 52' 13" East,
4-55 147.96 feet to the POINT OF BEGINNING on the centerline of Bessies
4-56 Creek;
4-57 Thence, leaving said west line and said common county line
4-58 and with the centerline meanders of said Bessies Creek, the
4-59 following nine (9) courses:
4-60 1) South 60° 36' 40" East, 445.96 feet to a point for corner;
4-61 2) South 72° 10' 05" East, 677.66 feet to a point for corner;
4-62 3) South 63° 45' 04" East, 311.20 feet to a point for corner;
4-63 4) South 38° 34' 04" East, 234.21 feet to a point for corner;
4-64 5) South 12° 57' 36" East, 253.54 feet to a point for corner;
4-65 6) South 06° 50' 44" West, 643.95 feet to a point for corner
4-66 on the common line of said Isaac N. Charles League and the
4-67 aforementioned Nathan Brookshire League;
4-68 7) leaving said common survey line and continuing with said
4-69 centerline, South 34° 38' 27" West, 435.63 feet to a point for

5-1 corner;
 5-2 8) South 56° 39' 01" West, 550.92 feet to a point for corner;
 5-3 9) South 64° 39' 53" West, 707.60 feet to a point for corner
 5-4 on the common line of said Fort Bend and Waller Counties;
 5-5 Thence, with said common county line, North 02° 01' 06" West,
 5-6 2599.24 feet to the POINT OF BEGINNING and containing 61.649 acres
 5-7 of land.
 5-8 PART THREE
 5-9 BEGINNING at the northwest corner of said 508.581 acre tract,
 5-10 same being on the east right-of-way line of said F.M. 1489 and on
 5-11 the south right-of-way line of said Hunt Road;
 5-12 Thence, with the common line of said 508.581 acre tract and
 5-13 said Hunt Road, the following sixteen (16) courses:
 5-14 1) North 87° 00' 12" East, 495.22 feet to a point for corner;
 5-15 2) North 88° 32' 51" East, 840.53 feet to a point for corner;
 5-16 3) South 89° 06' 42" East, 287.39 feet to a point for corner;
 5-17 4) North 87° 23' 42" East, 290.29 feet to a point for corner;
 5-18 5) North 85° 49' 30" East, 1087.09 feet to a point for
 5-19 corner;
 5-20 6) South 89° 36' 46" East, 349.85 feet to a point for corner;
 5-21 7) South 58° 02' 58" East, 204.94 feet to a point for corner;
 5-22 8) South 68° 03' 28" East, 205.01 feet to a point for corner;
 5-23 9) South 61° 16' 46" East, 147.02 feet to a point for corner;
 5-24 10) South 53° 05' 13" East, 304.45 feet to a point for
 5-25 corner;
 5-26 11) South 46° 20' 06" East, 312.65 feet to a point for
 5-27 corner;
 5-28 12) South 61° 23' 18" East, 132.54 feet to a point for
 5-29 corner;
 5-30 13) North 86° 52' 59" East, 1226.32 feet to a point for
 5-31 corner;
 5-32 14) North 88° 21' 37" East, 159.79 feet to a point for
 5-33 corner;
 5-34 15) South 68° 34' 57" East, 249.09 feet to a point for
 5-35 corner;
 5-36 16) South 88° 46' 41" East, 97.33 feet to the northeast
 5-37 corner of said 508.581 acre tract, same being on the centerline of
 5-38 said Bessies Creek;
 5-39 Thence, with the easterly line of said 508.581 acre tract and
 5-40 said centerline, the following twenty-nine (29) courses:
 5-41 1) South 01° 13' 19" West, 217.82 feet to a point for corner;
 5-42 2) South 12° 49' 24" East, 424.89 feet to a point for corner;
 5-43 3) South 24° 50' 47" East, 299.78 feet to a point for corner;
 5-44 4) South 41° 36' 29" East, 88.95 feet to a point for corner;
 5-45 5) South 31° 36' 15" East, 234.80 feet to a point for corner;
 5-46 6) South 39° 01' 13" East, 229.46 feet to a point for corner;
 5-47 7) South 18° 13' 06" East, 147.52 feet to a point for corner;
 5-48 8) South 13° 55' 52" East, 240.08 feet to a point for corner;
 5-49 9) South 08° 36' 21" West, 249.21 feet to a point for corner;
 5-50 10) South 19° 28' 30" West, 95.00 feet to a point for corner;
 5-51 11) South 33° 58' 55" West, 187.05 feet to a point for
 5-52 corner;
 5-53 12) South 43° 32' 53" West, 181.54 feet to a point for
 5-54 corner;
 5-55 13) South 57° 45' 22" West, 161.06 feet to a point for
 5-56 corner;
 5-57 14) South 67° 17' 56" West, 217.15 feet to a point for
 5-58 corner;
 5-59 15) South 62° 14' 41" West, 281.01 feet to a point for
 5-60 corner;
 5-61 16) South 75° 54' 38" West, 205.52 feet to a point for
 5-62 corner;
 5-63 17) South 70° 54' 24" West, 178.63 feet to a point for
 5-64 corner;
 5-65 18) South 73° 48' 11" West, 186.02 feet to a point for
 5-66 corner;
 5-67 19) South 69° 24' 18" West, 415.52 feet to a point for
 5-68 corner;
 5-69 20) South 77° 07' 45" West, 266.10 feet to a point for

6-1 corner;
6-2 21) South 78° 56' 08" West, 272.92 feet to a point for
6-3 corner;
6-4 22) South 84° 26' 54" West, 174.72 feet to a point for
6-5 corner;
6-6 23) North 88° 21' 42" West, 212.09 feet to a point for
6-7 corner;
6-8 24) South 80° 21' 04" West, 81.80 feet to a point for corner;
6-9 25) South 69° 10' 16" West, 210.11 feet to a point for
6-10 corner;
6-11 26) South 49° 28' 50" West, 121.89 feet to a point for
6-12 corner;
6-13 27) South 36° 59' 03" West, 103.76 feet to a point for
6-14 corner;
6-15 28) South 28° 42' 24" West, 92.55 feet to a point for corner;
6-16 29) South 05° 30' 33" West, 53.60 feet to the most southerly
6-17 southeast corner of said 508.581 acre tract;
6-18 Thence, with the south line of said 508.581 acre tract, South
6-19 87° 55' 38" West (called South 87° 55' 38" West), 3566.65 feet to a
6-20 point for corner;
6-21 Thence, continuing with said south line, South 41° 17' 16"
6-22 West, 165.81 feet to the southwest corner of said 508.581 acre tract
6-23 and on the east line of the aforementioned F.M. 1489;
6-24 Thence, with the common line of said 508.581 acre tract and
6-25 said F.M. 1489, North 08° 29' 32" East, 809.80 feet to a point for
6-26 corner, same being the southwest corner of that certain called
6-27 27.831 acre tract conveyed to Anna L. Madsen, et al, by instrument
6-28 of record in File No. 1999057726, F.B.C.O.P.R.;
6-29 Thence, with the common line of said 508.581 and 27.831 acre
6-30 tracts, the following five (5) courses:
6-31 1) North 85° 56' 42" East, 760.72 feet to a point for corner;
6-32 2) North 09° 27' 33" East, 842.61 feet to a point for corner;
6-33 3) North 13° 54' 13" East, 391.54 feet to a point for corner;
6-34 4) North 25° 54' 44" East, 469.92 feet to a point for corner;
6-35 5) South 87° 11' 48" West, 1139.49 feet to a point for
6-36 corner, same being the northwest corner of said 27.831 acre tract
6-37 and on the east line of said F.M. 1489;
6-38 Thence, with the common line of said 508.581 acre tract and
6-39 said F.M. 1489, North 02° 16' 02" West, 1888.41 feet to the POINT OF
6-40 BEGINNING and containing 508.583 acres of land.
6-41 Said Part One, Part Two and Part Three containing a total of
6-42 770.130 acres of land.
6-43 SECTION 3. (a) The legal notice of the intention to
6-44 introduce this Act, setting forth the general substance of this
6-45 Act, has been published as provided by law, and the notice and a
6-46 copy of this Act have been furnished to all persons, agencies,
6-47 officials, or entities to which they are required to be furnished
6-48 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6-49 Government Code.
6-50 (b) The governor, one of the required recipients, has
6-51 submitted the notice and Act to the Texas Commission on
6-52 Environmental Quality.
6-53 (c) The Texas Commission on Environmental Quality has filed
6-54 its recommendations relating to this Act with the governor, the
6-55 lieutenant governor, and the speaker of the house of
6-56 representatives within the required time.
6-57 (d) All requirements of the constitution and laws of this
6-58 state and the rules and procedures of the legislature with respect
6-59 to the notice, introduction, and passage of this Act are fulfilled
6-60 and accomplished.
6-61 SECTION 4. This Act takes effect immediately if it receives
6-62 a vote of two-thirds of all the members elected to each house, as
6-63 provided by Section 39, Article III, Texas Constitution. If this
6-64 Act does not receive the vote necessary for immediate effect, this
6-65 Act takes effect September 1, 2009.

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