

By: Bonnen

H.B. No. 1946

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 64; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

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 8313 to read as follows:

CHAPTER 8313. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 64

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8313.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Brazoria County Municipal Utility District No. 64.

Sec. 8313.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8313.003. CONFIRMATION AND DIRECTORS' 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.

Sec. 8313.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8313.003 until each municipality in whose corporate limits or

1 extraterritorial jurisdiction the district is located has
2 consented by ordinance or resolution to the creation of the
3 district and to the inclusion of land in the district.

4 Sec. 8313.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)

5 The district is created to serve a public purpose and benefit.

6 (b) The district is created to accomplish the purposes of:

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

9 (2) Section 52, Article III, Texas Constitution, that
10 relate to the construction, acquisition, improvement, operation,
11 or maintenance of macadamized, graveled, or paved roads, or
12 improvements, including storm drainage, in aid of those roads.

13 Sec. 8313.006. INITIAL DISTRICT TERRITORY. (a) The

14 district is initially composed of the territory described by
15 Section 2 of the Act creating this chapter.

16 (b) The boundaries and field notes contained in Section 2 of
17 the Act creating this chapter form a closure. A mistake made in the
18 field notes or in copying the field notes in the legislative process
19 does not affect the district's:

20 (1) organization, existence, or validity;

21 (2) right to issue any type of bond for the purposes
22 for which the district is created or to pay the principal of and
23 interest on a bond;

24 (3) right to impose a tax; or

25 (4) legality or operation.

26 [Sections 8313.007-8313.050 reserved for expansion]

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 8313.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five elected directors.

4 (b) Except as provided by Section 8313.052, directors serve
5 staggered four-year terms.

6 Sec. 8313.052. TEMPORARY DIRECTORS. (a) On or after the
7 effective date of the Act creating this chapter, the owner or owners
8 of a majority of the assessed value of the real property in the
9 district may submit a petition to the Texas Commission on
10 Environmental Quality requesting that the commission appoint as
11 temporary directors the five persons named in the petition. The
12 commission shall appoint as temporary directors the five persons
13 named in the petition.

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

15 (1) the date permanent directors are elected under
16 Section 8313.003; or

17 (2) the fourth anniversary of the effective date of
18 the Act creating this chapter.

19 (c) If permanent directors have not been elected under
20 Section 8313.003 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 8313.003; 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 [Sections 8313.053-8313.100 reserved for expansion]

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 8313.101. GENERAL POWERS AND DUTIES. The district has
11 the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. 8313.102. MUNICIPAL UTILITY DISTRICT POWERS AND
14 DUTIES. The district has the powers and duties provided by the
15 general law of this state, including Chapters 49 and 54, Water Code,
16 applicable to municipal utility districts created under Section 59,
17 Article XVI, Texas Constitution.

18 Sec. 8313.103. AUTHORITY FOR ROAD PROJECTS. Under Section
19 52, Article III, Texas Constitution, the district may design,
20 acquire, construct, finance, issue bonds for, improve, operate,
21 maintain, and convey to this state, a county, or a municipality for
22 operation and maintenance macadamized, graveled, or paved roads, or
23 improvements, including storm drainage, in aid of those roads.

24 Sec. 8313.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
25 project must meet all applicable construction standards, zoning and
26 subdivision requirements, and regulations of each municipality in
27 whose corporate limits or extraterritorial jurisdiction the road

1 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. 8313.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
11 OR RESOLUTION. The district shall comply with all applicable
12 requirements of any ordinance or resolution that is adopted under
13 Section 54.016 or 54.0165, Water Code, and that consents to the
14 creation of the district or to the inclusion of land in the
15 district.

16 Sec. 8313.106. EFFECT OF ANNEXATION BY VILLAGE OF BONNEY.

17 (a) The Village of Bonney may annex part of the territory of the
18 district into its corporate limits without annexing all of the
19 territory of the district under an agreement entered into between
20 the Village of Bonney and the landowners of the land being annexed.
21 The district continues in existence following annexation of part of
22 the territory of the district as described by this subsection.

23 (b) The district shall be dissolved and its debts and
24 obligations assumed by the Village of Bonney in accordance with
25 Chapter 43, Local Government Code, including Sections 43.075 and
26 43.0715, on annexation of all of the territory of the district by
27 the Village of Bonney, provided that:

1 (1) water, sanitary sewer, and drainage improvements,
2 and roads have been constructed to serve at least 95 percent of the
3 territory of the district; and

4 (2) the board adopts a resolution consenting to the
5 dissolution of the district.

6 (c) Notwithstanding Section 54.016(f)(2), Water Code, a
7 contract ("Allocation Agreement") between the Village of Bonney and
8 the district that provides for the allocation of the taxes or
9 revenues of the district and the city following the date of
10 inclusion of all the district's territory in the corporate limits
11 of the city, may provide that the total annual ad valorem taxes
12 collected by the city and the district from taxable property in the
13 district may exceed the city's ad valorem tax on the property.

14 Sec. 8313.107. LIMITATION ON USE OF EMINENT DOMAIN. The
15 district may not exercise the power of eminent domain outside the
16 district to acquire a site or easement for:

17 (1) a road project authorized by Section 8313.103; or

18 (2) a recreational facility as defined by Section
19 49.462, Water Code.

20 Sec. 8313.108. DIVISION OF DISTRICT. (a) The district may
21 be divided into two or more new districts only if the district:

22 (1) has no outstanding bonded debt; and

23 (2) is not imposing ad valorem taxes.

24 (b) This chapter applies to any new district created by the
25 division of the district, and a new district has all the powers and
26 duties of the district.

27 (c) Any new district created by the division of the district

1 may not, at the time the new district is created, contain any land
2 outside the area described by Section 2 of the Act creating this
3 chapter.

4 (d) The board, on its own motion or on receipt of a petition
5 signed by the owner or owners of a majority of the assessed value of
6 the real property in the district, may adopt an order dividing the
7 district.

8 (e) The board may adopt an order dividing the district
9 before or after the date the board holds an election under Section
10 8313.003 to confirm the district's creation.

11 (f) An order dividing the district shall:

12 (1) name each new district;

13 (2) include the metes and bounds description of the
14 territory of each new district;

15 (3) appoint temporary directors for each new district;

16 and

17 (4) provide for the division of assets and liabilities
18 between or among the new districts.

19 (g) On or before the 30th day after the date of adoption of
20 an order dividing the district, the district shall file the order
21 with the Texas Commission on Environmental Quality and record the
22 order in the real property records of each county in which the
23 district is located.

24 (h) Any new district created by the division of the district
25 shall hold a confirmation and directors' election as required by
26 Section 8313.003.

27 (i) Municipal consent to the creation of the district and to

1 the inclusion of land in the district granted under Section
2 8313.004 acts as municipal consent to the creation of any new
3 district created by the division of the district and to the
4 inclusion of land in the new district.

5 (j) Any new district created by the division of the district
6 must hold an election as required by this chapter to obtain voter
7 approval before the district may impose a maintenance tax or issue
8 bonds payable wholly or partly from ad valorem taxes.

9 [Sections 8313.109-8313.150 reserved for expansion]

10 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

11 Sec. 8313.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
12 district may issue, without an election, bonds and other
13 obligations secured by:

14 (1) revenue other than ad valorem taxes; or

15 (2) contract payments described by Section 8313.153.

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

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

24 Sec. 8313.152. OPERATION AND MAINTENANCE TAX. (a) If
25 authorized at an election held under Section 8313.151, the district
26 may impose an operation and maintenance tax on taxable property in
27 the district in accordance with Section 49.107, Water Code.

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

3 Sec. 8313.153. CONTRACT TAXES. (a) In accordance with
4 Section 49.108, Water Code, the district may impose a tax other than
5 an operation and maintenance tax and use the revenue derived from
6 the tax to make payments under a contract after the provisions of
7 the contract have been approved by a majority of the district voters
8 voting at an election held for that purpose.

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

12 [Sections 8313.154-8313.200 reserved for expansion]

13 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

14 Sec. 8313.201. AUTHORITY TO ISSUE BONDS AND OTHER
15 OBLIGATIONS. The district may issue bonds or other obligations
16 payable wholly or partly from ad valorem taxes, impact fees,
17 revenue, contract payments, grants, or other district money, or any
18 combination of those sources, to pay for any authorized district
19 purpose.

20 Sec. 8313.202. TAXES FOR BONDS. At the time the district
21 issues bonds payable wholly or partly from ad valorem taxes, the
22 board shall provide for the annual imposition of a continuing
23 direct ad valorem tax, without limit as to rate or amount, while all
24 or part of the bonds are outstanding as required and in the manner
25 provided by Sections 54.601 and 54.602, Water Code.

26 Sec. 8313.203. BONDS FOR ROAD PROJECTS. At the time of
27 issuance, the total principal amount of bonds or other obligations

1 issued or incurred to finance road projects and payable from ad
2 valorem taxes may not exceed one-fourth of the assessed value of the
3 real property in the district.

4 SECTION 2. The Brazoria County Municipal Utility District
5 No. 64 initially includes all the territory contained in the
6 following area:

7 BEGINNING at a concrete monument found in the East
8 right-of-way line of County Road 48 (60.0 feet wide), said point
9 being the Southwest corner of the aforementioned 137.818 acre tract
10 and the Northwest corner of the aforementioned 9.404 acre tract;

11 THENCE North 18 deg. 51 min. 59 sec. West, along the East
12 right-of-way line of County Road 48, a distance of 2790.11 feet to a
13 1 inch iron pipe found for the Northwest corner of the herein
14 described tract at the Northwest corner of said 137.818 acre tract
15 and the Southwest corner of Paloma Acres, Section I, according to
16 the Plat recorded in Volume 21, Pages 165-166, Plat Records;

17 THENCE North 86 deg. 59 min. 40 sec. East, along the
18 North line of said 137.818 acre tract and the South line of Paloma
19 Acres, Section I, at 20.0 feet pass a 1/2 inch iron rod found at the
20 Southwest corner of Lot 1, Section 1, and continue along the South
21 line of Section 1, and Paloma Acres, Section III, according to the
22 Plat recorded in Clerk's File 2006-050280, for a total distance of
23 3368.31 feet to a 1 inch iron pipe found for the Northeast corner of
24 the herein described tract at the Northeast corner of said 137.818
25 acre tract in the West right-of-way line of State Highway No. 288
26 which point is the Northwest corner of a tract described as Parcel
27 164 in a deed to the State of Texas for the right-of-way of State

1 Highway No. 288 recorded in Volume 1082, Page 925, Deed Records;

2 THENCE with the line of Parcel 164, being the Westerly
3 right-of-way line of State Highway No. 288, following a curve to the
4 right having a Radius of 11249.16 feet, Central Angle of 06 deg. 39
5 min. 14 sec., Chord Bearing and Distance of South 24 deg. 58 min. 51
6 sec. West - 1305.64 feet, for an arc distance of 1306.37 feet to a
7 1/2 inch iron rod set at the P. T. of said curve;

8 THENCE South 27 deg. 36 min. 58 sec. West with the line of
9 Parcel 164 and the line of a tract described as Parcel 165 in Volume
10 1133, Page 85, Deed Records, being the Westerly right-of-way line
11 of State Highway No. 288, a distance of 2053.50 feet to a concrete
12 monument found at the P.C. of a curve to the right;

13 THENCE with the line of Parcel 165, being the Westerly
14 right-of-way line of State Highway No. 288, following said curve to
15 the right having a Radius of 1095.92 feet, Central Angle of 28 deg.
16 40 min. 03 sec., Chord Bearing and Distance of South 56 deg. 26 min.
17 43 sec. West - 542.63 feet, for an arc distance of 548.33 feet to a
18 concrete monument found at the P.T. of said curve;

19 THENCE South 70 deg. 54 min. 55 sec. West with a line of
20 Parcel 165 being the Westerly right-of-way line of State Highway
21 No. 288, a distance of 241.69 feet to a 1/2 inch iron rod set at a
22 cut-back line in said right-of-way;

23 THENCE North 64 deg. 05 min. 05 sec. West with the line of
24 Parcel 165 and said cut-back, a distance of 71.21 feet to a concrete
25 monument found;

26 THENCE North 18 deg. 52 min. 09 sec. West with a line of
27 Parcel 165, a distance of 300.46 feet to a concrete monument found

1 for corner;

2 THENCE South 73 deg. 18 min. 08 sec. West with a line of
3 Parcel 165, a distance of 18.40 feet to a concrete monument found in
4 the East right-of-way line of County Road 48, said point being the
5 Westerly Northwest corner of Parcel 165;

6 THENCE North 21 deg. 09 min. 48 sec. West, along the East
7 right-of-way line of County Road 48 and the West line of the
8 aforementioned 9.404 acre tract, a distance of 273.48 feet to the
9 PLACE OF BEGINNING and containing 148.36 acres of land.

10 BEGINNING at a 1/2 inch iron rod set for the Southwest corner
11 of the herein described tract; the Southwest corner of the Stephen
12 F. Austin League, Abstract 24, the Southeast corner of the Melvin D.
13 Coleman tract described in Volume 1697, Page 696, Deed Records, the
14 Southeast corner of the Stephen F. Austin League, Abstract 25, said
15 point being in the North line of a 209.54 acre tract described in a
16 deed to Doyle McConathy, Jr. recorded in Clerk's File 97-022435,
17 and the North line of the Joshua Abbott League, Abstract 144;

18 THENCE North 03 deg. 37 min. 32 sec. West, along the common
19 line of Abstract 24 and Abstract 25, being the West line of said
20 209.194 acre tract and the East line of the Coleman tract, a
21 distance of 2576.00 feet to a concrete monument found for the
22 Northwest corner of the herein described tract in the South
23 right-of-way line of County Road 618 (60.0 feet wide);

24 THENCE North 87 deg. 18 min. 23 sec. East, along the South
25 right-of-way line of County Road 618, a distance of 3827.69 feet to
26 a 1/2 inch iron rod set for the Northeast corner of the herein
27 described tract in the West right-of-way line of County Road 48;

1 THENCE South 21 deg. 02 min. 56 sec. East, along the West
2 right-of-way line of County Road 48, a distance of 172.26 feet to a
3 concrete monument found for corner at the extreme North corner of a
4 tract described as Parcel 166 in a deed to the State of Texas for the
5 right-of-way of State Highway No. 288 recorded in Volume 1133, Page
6 85, Deed Records;

7 THENCE South 70 deg. 39 min. 19 sec. West with the line of
8 Parcel 166, a distance of 27.31 feet to a concrete monument found
9 for corner;

10 THENCE South 18 deg. 28 min. 39 sec. East with the line of
11 Parcel 166, a distance of 149.88 feet to a concrete monument found
12 at a cut-back corner in said right-of-way;

13 THENCE South 25 deg. 13 min. 03 sec. West with the line of
14 Parcel 166 and said cut-back, a distance of 70.30 feet to a concrete
15 monument found;

16 THENCE South 72 deg. 03 min. 26 sec. West with the line of
17 Parcel 166 being the Westerly right-of-way line of State Highway
18 No. 288, a distance of 51.65 feet to a 1/2 inch iron rod set at the
19 P.C. of a curve to the left;

20 THENCE with the line of Parcel 166, being the Westerly
21 right-of-way line of State Highway No. 288, following said curve to
22 the left having a Radius of 458.37 feet, Central Angle of 90 deg. 00
23 min. 02 sec., Chord Bearing and Distance of South 26 deg. 02 min. 38
24 sec. West - 648.24 feet, for an arc distance of 720.01 feet to a
25 concrete monument found at the P. T. of said curve;

26 THENCE South 18 deg. 57 min. 23 sec. East with the line of
27 Parcel 166 being the Westerly right-of-way line of State Highway

1 No. 288, a distance of 311.37 feet to a concrete monument found at
2 the P.C. of a curve to the right;

3 THENCE with the line of Parcel 166, being the Westerly
4 right-of-way line of State Highway No. 288, following said curve to
5 the right having a Radius of 1273.24 feet, Central Angle of 36 deg.
6 46 min. 50 sec., Chord Bearing and Distance of South 00 deg. 40 min.
7 40 sec. East - 803.38 feet, for an arc distance of 817.34 feet to a
8 concrete monument found at the P. T. of said curve;

9 THENCE South 17 deg. 50 min. 15 sec. West with the line of
10 Parcel 166, being the westerly right-of-way line of State Highway
11 No. 288, a distance of 520.91 feet to a 3/4 inch iron pipe found for
12 the Southeast corner of the herein described tract at the Southeast
13 corner of said 209.194 acre tract, the Southwest corner of Parcel
14 166, and the Northeast corner of the aforementioned McConathy
15 tract, said point being in the common line of Abstract 24 and
16 Abstract 144;

17 THENCE South 86 deg. 51 min. 11 sec. West, along the common
18 line of said Surveys being the South line of said 209.194 acre tract
19 and the North line of the McConathy tract, a distance of 3336.59
20 feet to the PLACE OF BEGINNING and containing 210.77 acres of land.

21 SECTION 3. (a) The legal notice of the intention to
22 introduce this Act, setting forth the general substance of this
23 Act, has been published as provided by law, and the notice and a
24 copy of this Act have been furnished to all persons, agencies,
25 officials, or entities to which they are required to be furnished
26 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
27 Government Code.

1 (b) The governor, one of the required recipients, has
2 submitted the notice and Act to the Texas Commission on
3 Environmental Quality.

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

8 (d) All requirements of the constitution and laws of this
9 state and the rules and procedures of the legislature with respect
10 to the notice, introduction, and passage of this Act are fulfilled
11 and accomplished.

12 SECTION 4. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2009.