

1-1 By: Bonnen (Senate Sponsor - Huffman) H.B. No. 1946  
1-2 (In the Senate - Received from the House May 18, 2009;  
1-3 May 19, 2009, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 23, 2009, reported favorably by  
1-5 the following vote: Yeas 5, Nays 0; May 23, 2009, sent to  
1-6 printer.)

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

1-9 relating to the creation of the Brazoria County Municipal Utility  
1-10 District No. 64; providing authority to impose a tax and issue  
1-11 bonds; granting a limited 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 8313 to read as follows:

1-15 CHAPTER 8313. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 64

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 8313.001. 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 Brazoria County Municipal  
1-21 Utility District No. 64.

1-22 Sec. 8313.002. NATURE OF DISTRICT. The district is a  
1-23 municipal utility district created under Section 59, Article XVI,  
1-24 Texas Constitution.

1-25 Sec. 8313.003. CONFIRMATION AND DIRECTORS' ELECTION  
1-26 REQUIRED. The temporary directors shall hold an election to  
1-27 confirm the creation of the district and to elect five permanent  
1-28 directors as provided by Section 49.102, Water Code.

1-29 Sec. 8313.004. CONSENT OF MUNICIPALITY REQUIRED. The  
1-30 temporary directors may not hold an election under Section 8313.003  
1-31 until each municipality in whose corporate limits or  
1-32 extraterritorial jurisdiction the district is located has  
1-33 consented by ordinance or resolution to the creation of the  
1-34 district and to the inclusion of land in the district.

1-35 Sec. 8313.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)  
1-36 The district is created to serve a public purpose and benefit.

1-37 (b) The district is created to accomplish the purposes of:

1-38 (1) a municipal utility district as provided by  
1-39 general law and Section 59, Article XVI, Texas Constitution; and

1-40 (2) Section 52, Article III, Texas Constitution, that  
1-41 relate to the construction, acquisition, improvement, operation,  
1-42 or maintenance of macadamized, graveled, or paved roads, or  
1-43 improvements, including storm drainage, in aid of those roads.

1-44 Sec. 8313.006. INITIAL DISTRICT TERRITORY. (a) The  
1-45 district is initially composed of the territory described by  
1-46 Section 2 of the Act creating this chapter.

1-47 (b) The boundaries and field notes contained in Section 2 of  
1-48 the Act creating this chapter form a closure. A mistake made in the  
1-49 field notes or in copying the field notes in the legislative process  
1-50 does not affect the district's:

1-51 (1) organization, existence, or validity;

1-52 (2) right to issue any type of bond for the purposes  
1-53 for which the district is created or to pay the principal of and  
1-54 interest on a bond;

1-55 (3) right to impose a tax; or

1-56 (4) legality or operation.

1-57 [Sections 8313.007-8313.050 reserved for expansion]

1-58 SUBCHAPTER B. BOARD OF DIRECTORS

1-59 Sec. 8313.051. GOVERNING BODY; TERMS. (a) The district is  
1-60 governed by a board of five elected directors.

1-61 (b) Except as provided by Section 8313.052, directors serve  
1-62 staggered four-year terms.

1-63 Sec. 8313.052. TEMPORARY DIRECTORS. (a) On or after the  
1-64 effective date of the Act creating this chapter, the owner or owners

2-1 of a majority of the assessed value of the real property in the  
 2-2 district may submit a petition to the Texas Commission on  
 2-3 Environmental Quality requesting that the commission appoint as  
 2-4 temporary directors the five persons named in the petition. The  
 2-5 commission shall appoint as temporary directors the five persons  
 2-6 named in the petition.

2-7 (b) Temporary directors serve until the earlier of:  
 2-8 (1) the date permanent directors are elected under  
 2-9 Section 8313.003; or  
 2-10 (2) the fourth anniversary of the effective date of  
 2-11 the Act creating this chapter.

2-12 (c) If permanent directors have not been elected under  
 2-13 Section 8313.003 and the terms of the temporary directors have  
 2-14 expired, successor temporary directors shall be appointed or  
 2-15 reappointed as provided by Subsection (d) to serve terms that  
 2-16 expire on the earlier of:

2-17 (1) the date permanent directors are elected under  
 2-18 Section 8313.003; or  
 2-19 (2) the fourth anniversary of the date of the  
 2-20 appointment or reappointment.

2-21 (d) If Subsection (c) applies, the owner or owners of a  
 2-22 majority of the assessed value of the real property in the district  
 2-23 may submit a petition to the commission requesting that the  
 2-24 commission appoint as successor temporary directors the five  
 2-25 persons named in the petition. The commission shall appoint as  
 2-26 successor temporary directors the five persons named in the  
 2-27 petition.

2-28 [Sections 8313.053-8313.100 reserved for expansion]

2-29 SUBCHAPTER C. POWERS AND DUTIES

2-30 Sec. 8313.101. GENERAL POWERS AND DUTIES. The district has  
 2-31 the powers and duties necessary to accomplish the purposes for  
 2-32 which the district is created.

2-33 Sec. 8313.102. MUNICIPAL UTILITY DISTRICT POWERS AND  
 2-34 DUTIES. The district has the powers and duties provided by the  
 2-35 general law of this state, including Chapters 49 and 54, Water Code,  
 2-36 applicable to municipal utility districts created under Section 59,  
 2-37 Article XVI, Texas Constitution.

2-38 Sec. 8313.103. AUTHORITY FOR ROAD PROJECTS. Under Section  
 2-39 52, Article III, Texas Constitution, the district may design,  
 2-40 acquire, construct, finance, issue bonds for, improve, operate,  
 2-41 maintain, and convey to this state, a county, or a municipality for  
 2-42 operation and maintenance macadamized, graveled, or paved roads, or  
 2-43 improvements, including storm drainage, in aid of those roads.

2-44 Sec. 8313.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road  
 2-45 project must meet all applicable construction standards, zoning and  
 2-46 subdivision requirements, and regulations of each municipality in  
 2-47 whose corporate limits or extraterritorial jurisdiction the road  
 2-48 project is located.

2-49 (b) If a road project is not located in the corporate limits  
 2-50 or extraterritorial jurisdiction of a municipality, the road  
 2-51 project must meet all applicable construction standards,  
 2-52 subdivision requirements, and regulations of each county in which  
 2-53 the road project is located.

2-54 (c) If the state will maintain and operate the road, the  
 2-55 Texas Transportation Commission must approve the plans and  
 2-56 specifications of the road project.

2-57 Sec. 8313.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE  
 2-58 OR RESOLUTION. The district shall comply with all applicable  
 2-59 requirements of any ordinance or resolution that is adopted under  
 2-60 Section 54.016 or 54.0165, Water Code, and that consents to the  
 2-61 creation of the district or to the inclusion of land in the  
 2-62 district.

2-63 Sec. 8313.106. EFFECT OF ANNEXATION BY VILLAGE OF BONNEY.

2-64 (a) The Village of Bonney may annex part of the territory of the  
 2-65 district into its corporate limits without annexing all of the  
 2-66 territory of the district under an agreement entered into between  
 2-67 the Village of Bonney and the landowners of the land being annexed.  
 2-68 The district continues in existence following annexation of part of  
 2-69 the territory of the district as described by this subsection.

3-1           (b) The district shall be dissolved and its debts and  
3-2 obligations assumed by the Village of Bonney in accordance with  
3-3 Chapter 43, Local Government Code, including Sections 43.075 and  
3-4 43.0715, on annexation of all of the territory of the district by  
3-5 the Village of Bonney, provided that:

3-6           (1) water, sanitary sewer, and drainage improvements,  
3-7 and roads have been constructed to serve at least 95 percent of the  
3-8 territory of the district; and

3-9           (2) the board adopts a resolution consenting to the  
3-10 dissolution of the district.

3-11           (c) Notwithstanding Section 54.016(f)(2), Water Code, a  
3-12 contract ("Allocation Agreement") between the Village of Bonney and  
3-13 the district that provides for the allocation of the taxes or  
3-14 revenues of the district and the city following the date of  
3-15 inclusion of all the district's territory in the corporate limits  
3-16 of the city, may provide that the total annual ad valorem taxes  
3-17 collected by the city and the district from taxable property in the  
3-18 district may exceed the city's ad valorem tax on the property.

3-19           Sec. 8313.107. LIMITATION ON USE OF EMINENT DOMAIN. The  
3-20 district may not exercise the power of eminent domain outside the  
3-21 district to acquire a site or easement for:

3-22           (1) a road project authorized by Section 8313.103; or

3-23           (2) a recreational facility as defined by Section  
3-24 49.462, Water Code.

3-25           Sec. 8313.108. DIVISION OF DISTRICT. (a) The district may  
3-26 be divided into two or more new districts only if the district:

3-27           (1) has no outstanding bonded debt; and

3-28           (2) is not imposing ad valorem taxes.

3-29           (b) This chapter applies to any new district created by the  
3-30 division of the district, and a new district has all the powers and  
3-31 duties of the district.

3-32           (c) Any new district created by the division of the district  
3-33 may not, at the time the new district is created, contain any land  
3-34 outside the area described by Section 2 of the Act creating this  
3-35 chapter.

3-36           (d) The board, on its own motion or on receipt of a petition  
3-37 signed by the owner or owners of a majority of the assessed value of  
3-38 the real property in the district, may adopt an order dividing the  
3-39 district.

3-40           (e) The board may adopt an order dividing the district  
3-41 before or after the date the board holds an election under Section  
3-42 8313.003 to confirm the district's creation.

3-43           (f) An order dividing the district shall:

3-44           (1) name each new district;

3-45           (2) include the metes and bounds description of the  
3-46 territory of each new district;

3-47           (3) appoint temporary directors for each new district;

3-48 and

3-49           (4) provide for the division of assets and liabilities  
3-50 between or among the new districts.

3-51           (g) On or before the 30th day after the date of adoption of  
3-52 an order dividing the district, the district shall file the order  
3-53 with the Texas Commission on Environmental Quality and record the  
3-54 order in the real property records of each county in which the  
3-55 district is located.

3-56           (h) Any new district created by the division of the district  
3-57 shall hold a confirmation and directors' election as required by  
3-58 Section 8313.003.

3-59           (i) Municipal consent to the creation of the district and to  
3-60 the inclusion of land in the district granted under Section  
3-61 8313.004 acts as municipal consent to the creation of any new  
3-62 district created by the division of the district and to the  
3-63 inclusion of land in the new district.

3-64           (j) Any new district created by the division of the district  
3-65 must hold an election as required by this chapter to obtain voter  
3-66 approval before the district may impose a maintenance tax or issue  
3-67 bonds payable wholly or partly from ad valorem taxes.

3-68           [Sections 8313.109-8313.150 reserved for expansion]

3-69           SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

4-1 Sec. 8313.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The  
4-2 district may issue, without an election, bonds and other  
4-3 obligations secured by:

4-4 (1) revenue other than ad valorem taxes; or  
4-5 (2) contract payments described by Section 8313.153.

4-6 (b) The district must hold an election in the manner  
4-7 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
4-8 before the district may impose an ad valorem tax or issue bonds  
4-9 payable from ad valorem taxes.

4-10 (c) The district may not issue bonds payable from ad valorem  
4-11 taxes to finance a road project unless the issuance is approved by a  
4-12 vote of a two-thirds majority of the district voters voting at an  
4-13 election held for that purpose.

4-14 Sec. 8313.152. OPERATION AND MAINTENANCE TAX. (a) If  
4-15 authorized at an election held under Section 8313.151, the district  
4-16 may impose an operation and maintenance tax on taxable property in  
4-17 the district in accordance with Section 49.107, Water Code.

4-18 (b) The board shall determine the tax rate. The rate may not  
4-19 exceed the rate approved at the election.

4-20 Sec. 8313.153. CONTRACT TAXES. (a) In accordance with  
4-21 Section 49.108, Water Code, the district may impose a tax other than  
4-22 an operation and maintenance tax and use the revenue derived from  
4-23 the tax to make payments under a contract after the provisions of  
4-24 the contract have been approved by a majority of the district voters  
4-25 voting at an election held for that purpose.

4-26 (b) A contract approved by the district voters may contain a  
4-27 provision stating that the contract may be modified or amended by  
4-28 the board without further voter approval.

4-29 [Sections 8313.154-8313.200 reserved for expansion]

4-30 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

4-31 Sec. 8313.201. AUTHORITY TO ISSUE BONDS AND OTHER  
4-32 OBLIGATIONS. The district may issue bonds or other obligations  
4-33 payable wholly or partly from ad valorem taxes, impact fees,  
4-34 revenue, contract payments, grants, or other district money, or any  
4-35 combination of those sources, to pay for any authorized district  
4-36 purpose.

4-37 Sec. 8313.202. TAXES FOR BONDS. At the time the district  
4-38 issues bonds payable wholly or partly from ad valorem taxes, the  
4-39 board shall provide for the annual imposition of a continuing  
4-40 direct ad valorem tax, without limit as to rate or amount, while all  
4-41 or part of the bonds are outstanding as required and in the manner  
4-42 provided by Sections 54.601 and 54.602, Water Code.

4-43 Sec. 8313.203. BONDS FOR ROAD PROJECTS. At the time of  
4-44 issuance, the total principal amount of bonds or other obligations  
4-45 issued or incurred to finance road projects and payable from ad  
4-46 valorem taxes may not exceed one-fourth of the assessed value of the  
4-47 real property in the district.

4-48 SECTION 2. The Brazoria County Municipal Utility District  
4-49 No. 64 initially includes all the territory contained in the  
4-50 following area:

4-51 BEGINNING at a concrete monument found in the East  
4-52 right-of-way line of County Road 48 (60.0 feet wide), said point  
4-53 being the Southwest corner of the aforementioned 137.818 acre tract  
4-54 and the Northwest corner of the aforementioned 9.404 acre tract;

4-55 THENCE North 18 deg. 51 min. 59 sec. West, along the East  
4-56 right-of-way line of County Road 48, a distance of 2790.11 feet to a  
4-57 1 inch iron pipe found for the Northwest corner of the herein  
4-58 described tract at the Northwest corner of said 137.818 acre tract  
4-59 and the Southwest corner of Paloma Acres, Section I, according to  
4-60 the Plat recorded in Volume 21, Pages 165-166, Plat Records;

4-61 THENCE North 86 deg. 59 min. 40 sec. East, along the  
4-62 North line of said 137.818 acre tract and the South line of Paloma  
4-63 Acres, Section I, at 20.0 feet pass a 1/2 inch iron rod found at the  
4-64 Southwest corner of Lot 1, Section 1, and continue along the South  
4-65 line of Section 1, and Paloma Acres, Section III, according to the  
4-66 Plat recorded in Clerk's File 2006-050280, for a total distance of  
4-67 3368.31 feet to a 1 inch iron pipe found for the Northeast corner of  
4-68 the herein described tract at the Northeast corner of said 137.818  
4-69 acre tract in the West right-of-way line of State Highway No. 288

5-1 which point is the Northwest corner of a tract described as Parcel  
5-2 164 in a deed to the State of Texas for the right-of-way of State  
5-3 Highway No. 288 recorded in Volume 1082, Page 925, Deed Records;  
5-4 THENCE with the line of Parcel 164, being the Westerly  
5-5 right-of-way line of State Highway No. 288, following a curve to the  
5-6 right having a Radius of 11249.16 feet, Central Angle of 06 deg. 39  
5-7 min. 14 sec., Chord Bearing and Distance of South 24 deg. 58 min. 51  
5-8 sec. West - 1305.64 feet, for an arc distance of 1306.37 feet to a  
5-9 1/2 inch iron rod set at the P. T. of said curve;  
5-10 THENCE South 27 deg. 36 min. 58 sec. West with the line of  
5-11 Parcel 164 and the line of a tract described as Parcel 165 in Volume  
5-12 1133, Page 85, Deed Records, being the Westerly right-of-way line  
5-13 of State Highway No. 288, a distance of 2053.50 feet to a concrete  
5-14 monument found at the P.C. of a curve to the right;  
5-15 THENCE with the line of Parcel 165, being the Westerly  
5-16 right-of-way line of State Highway No. 288, following said curve to  
5-17 the right having a Radius of 1095.92 feet, Central Angle of 28 deg.  
5-18 40 min. 03 sec., Chord Bearing and Distance of South 56 deg. 26 min.  
5-19 43 sec. West - 542.63 feet, for an arc distance of 548.33 feet to a  
5-20 concrete monument found at the P.T. of said curve;  
5-21 THENCE South 70 deg. 54 min. 55 sec. West with a line of  
5-22 Parcel 165 being the Westerly right-of-way line of State Highway  
5-23 No. 288, a distance of 241.69 feet to a 1/2 inch iron rod set at a  
5-24 cut-back line in said right-of-way;  
5-25 THENCE North 64 deg. 05 min. 05 sec. West with the line of  
5-26 Parcel 165 and said cut-back, a distance of 71.21 feet to a concrete  
5-27 monument found;  
5-28 THENCE North 18 deg. 52 min. 09 sec. West with a line of  
5-29 Parcel 165, a distance of 300.46 feet to a concrete monument found  
5-30 for corner;  
5-31 THENCE South 73 deg. 18 min. 08 sec. West with a line of  
5-32 Parcel 165, a distance of 18.40 feet to a concrete monument found in  
5-33 the East right-of-way line of County Road 48, said point being the  
5-34 Westerly Northwest corner of Parcel 165;  
5-35 THENCE North 21 deg. 09 min. 48 sec. West, along the East  
5-36 right-of-way line of County Road 48 and the West line of the  
5-37 aforementioned 9.404 acre tract, a distance of 273.48 feet to the  
5-38 PLACE OF BEGINNING and containing 148.36 acres of land.  
5-39 BEGINNING at a 1/2 inch iron rod set for the Southwest corner  
5-40 of the herein described tract; the Southwest corner of the Stephen  
5-41 F. Austin League, Abstract 24, the Southeast corner of the Melvin D.  
5-42 Coleman tract described in Volume 1697, Page 696, Deed Records, the  
5-43 Southeast corner of the Stephen F. Austin League, Abstract 25, said  
5-44 point being in the North line of a 209.54 acre tract described in a  
5-45 deed to Doyle McConathy, Jr. recorded in Clerk's File 97-022435,  
5-46 and the North line of the Joshua Abbott League, Abstract 144;  
5-47 THENCE North 03 deg. 37 min. 32 sec. West, along the common  
5-48 line of Abstract 24 and Abstract 25, being the West line of said  
5-49 209.194 acre tract and the East line of the Coleman tract, a  
5-50 distance of 2576.00 feet to a concrete monument found for the  
5-51 Northwest corner of the herein described tract in the South  
5-52 right-of-way line of County Road 618 (60.0 feet wide);  
5-53 THENCE North 87 deg. 18 min. 23 sec. East, along the South  
5-54 right-of-way line of County Road 618, a distance of 3827.69 feet to  
5-55 a 1/2 inch iron rod set for the Northeast corner of the herein  
5-56 described tract in the West right-of-way line of County Road 48;  
5-57 THENCE South 21 deg. 02 min. 56 sec. East, along the West  
5-58 right-of-way line of County Road 48, a distance of 172.26 feet to a  
5-59 concrete monument found for corner at the extreme North corner of a  
5-60 tract described as Parcel 166 in a deed to the State of Texas for the  
5-61 right-of-way of State Highway No. 288 recorded in Volume 1133, Page  
5-62 85, Deed Records;  
5-63 THENCE South 70 deg. 39 min. 19 sec. West with the line of  
5-64 Parcel 166, a distance of 27.31 feet to a concrete monument found  
5-65 for corner;  
5-66 THENCE South 18 deg. 28 min. 39 sec. East with the line of  
5-67 Parcel 166, a distance of 149.88 feet to a concrete monument found  
5-68 at a cut-back corner in said right-of-way;  
5-69 THENCE South 25 deg. 13 min. 03 sec. West with the line of

6-1 Parcel 166 and said cut-back, a distance of 70.30 feet to a concrete  
6-2 monument found;  
6-3       THENCE South 72 deg. 03 min. 26 sec. West with the line of  
6-4 Parcel 166 being the Westerly right-of-way line of State Highway  
6-5 No. 288, a distance of 51.65 feet to a 1/2 inch iron rod set at the  
6-6 P.C. of a curve to the left;  
6-7       THENCE with the line of Parcel 166, being the Westerly  
6-8 right-of-way line of State Highway No. 288, following said curve to  
6-9 the left having a Radius of 458.37 feet, Central Angle of 90 deg. 00  
6-10 min. 02 sec., Chord Bearing and Distance of South 26 deg. 02 min. 38  
6-11 sec. West - 648.24 feet, for an arc distance of 720.01 feet to a  
6-12 concrete monument found at the P. T. of said curve;  
6-13       THENCE South 18 deg. 57 min. 23 sec. East with the line of  
6-14 Parcel 166 being the Westerly right-of-way line of State Highway  
6-15 No. 288, a distance of 311.37 feet to a concrete monument found at  
6-16 the P.C. of a curve to the right;  
6-17       THENCE with the line of Parcel 166, being the Westerly  
6-18 right-of-way line of State Highway No. 288, following said curve to  
6-19 the right having a Radius of 1273.24 feet, Central Angle of 36 deg.  
6-20 46 min. 50 sec., Chord Bearing and Distance of South 00 deg. 40 min.  
6-21 40 sec. East - 803.38 feet, for an arc distance of 817.34 feet to a  
6-22 concrete monument found at the P. T. of said curve;  
6-23       THENCE South 17 deg. 50 min. 15 sec. West with the line of  
6-24 Parcel 166, being the westerly right-of-way line of State Highway  
6-25 No. 288, a distance of 520.91 feet to a 3/4 inch iron pipe found for  
6-26 the Southeast corner of the herein described tract at the Southeast  
6-27 corner of said 209.194 acre tract, the Southwest corner of Parcel  
6-28 166, and the Northeast corner of the aforementioned McConathy  
6-29 tract, said point being in the common line of Abstract 24 and  
6-30 Abstract 144;  
6-31       THENCE South 86 deg. 51 min. 11 sec. West, along the common  
6-32 line of said Surveys being the South line of said 209.194 acre tract  
6-33 and the North line of the McConathy tract, a distance of 3336.59  
6-34 feet to the PLACE OF BEGINNING and containing 210.77 acres of land.  
6-35       SECTION 3. (a) The legal notice of the intention to  
6-36 introduce this Act, setting forth the general substance of this  
6-37 Act, has been published as provided by law, and the notice and a  
6-38 copy of this Act have been furnished to all persons, agencies,  
6-39 officials, or entities to which they are required to be furnished  
6-40 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
6-41 Government Code.  
6-42       (b) The governor, one of the required recipients, has  
6-43 submitted the notice and Act to the Texas Commission on  
6-44 Environmental Quality.  
6-45       (c) The Texas Commission on Environmental Quality has filed  
6-46 its recommendations relating to this Act with the governor, the  
6-47 lieutenant governor, and the speaker of the house of  
6-48 representatives within the required time.  
6-49       (d) All requirements of the constitution and laws of this  
6-50 state and the rules and procedures of the legislature with respect  
6-51 to the notice, introduction, and passage of this Act are fulfilled  
6-52 and accomplished.  
6-53       SECTION 4. This Act takes effect immediately if it receives  
6-54 a vote of two-thirds of all the members elected to each house, as  
6-55 provided by Section 39, Article III, Texas Constitution. If this  
6-56 Act does not receive the vote necessary for immediate effect, this  
6-57 Act takes effect September 1, 2009.

6-58

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