

By: Weber

H.B. No. 4104

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 65; 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 8357 to read as follows:

CHAPTER 8357. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 65

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8357.001. 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. 65.

Sec. 8357.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8357.003. 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. 8357.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8357.003 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. 8357.005. 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, or improvement of
11 macadamized, graveled, or paved roads described by Section 54.234,
12 Water Code, or improvements, including storm drainage, in aid of
13 those roads.

14 Sec. 8357.006. INITIAL DISTRICT TERRITORY. (a) The
15 district is initially composed of the territory described by
16 Section 2 of the Act creating this chapter.

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

21 (1) organization, existence, or validity;

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

25 (3) right to impose a tax; or

26 (4) legality or operation.

27 [Sections 8357.007-8357.050 reserved for expansion]

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 8357.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five elected directors.

4 (b) Except as provided by Section 8357.052, directors serve
5 staggered four-year terms.

6 Sec. 8357.052. 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 8357.003; 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 8357.003 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 8357.003; 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 8357.053-8357.100 reserved for expansion]

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 8357.101. 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. 8357.102. 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. 8357.103. AUTHORITY FOR ROAD PROJECTS. (a) Under
19 Section 52, Article III, Texas Constitution, the district may
20 design, acquire, construct, finance, issue bonds for, improve, and
21 convey to this state, a county, or a municipality for operation and
22 maintenance macadamized, graveled, or paved roads described by
23 Section 54.234, Water Code, or improvements, including storm
24 drainage, in aid of those roads.

25 (b) The district may exercise the powers provided by this
26 section without submitting a petition to or obtaining approval from
27 the Texas Commission on Environmental Quality as required by

1 Section 54.234, Water Code.

2 Sec. 8357.104. APPROVAL OF ROAD PROJECT. (a) The district
3 may not undertake a road project authorized by Section 8357.103
4 unless:

5 (1) each municipality or county that will operate and
6 maintain the road has approved the plans and specifications of the
7 road project, if a municipality or county will operate and maintain
8 the road; or

9 (2) the Texas Transportation Commission has approved
10 the plans and specifications of the road project, if the state will
11 operate and maintain the road.

12 (b) Except as provided by Subsection (a), the district is
13 not required to obtain approval from the Texas Transportation
14 Commission to design, acquire, construct, finance, issue bonds for,
15 improve, or convey a road project.

16 Sec. 8357.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
17 OR RESOLUTION. The district shall comply with all applicable
18 requirements of any ordinance or resolution that is adopted under
19 Section 54.016 or 54.0165, Water Code, and that consents to the
20 creation of the district or to the inclusion of land in the
21 district.

22 Sec. 8357.106. LIMITATION ON USE OF EMINENT DOMAIN. The
23 district may not exercise the power of eminent domain outside the
24 district to acquire a site or easement for:

25 (1) a road project authorized by Section 8357.103; or

26 (2) a recreational facility as defined by Section
27 49.462, Water Code.

1 [Sections 8357.107-8357.150 reserved for expansion]

2 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3 Sec. 8357.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
4 district may issue, without an election, bonds and other
5 obligations secured by:

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

7 (2) contract payments described by Section 8357.153.

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

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

16 Sec. 8357.152. OPERATION AND MAINTENANCE TAX. (a) If
17 authorized at an election held under Section 8357.151, the district
18 may impose an operation and maintenance tax on taxable property in
19 the district in accordance with Section 49.107, Water Code.

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

22 Sec. 8357.153. CONTRACT TAXES. (a) In accordance with
23 Section 49.108, Water Code, the district may impose a tax other than
24 an operation and maintenance tax and use the revenue derived from
25 the tax to make payments under a contract after the provisions of
26 the contract have been approved by a majority of the district voters
27 voting at an election held for that purpose.

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

4 [Sections 8357.154-8357.200 reserved for expansion]

5 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

6 Sec. 8357.201. AUTHORITY TO ISSUE BONDS AND OTHER
7 OBLIGATIONS. The district may issue bonds or other obligations
8 payable wholly or partly from ad valorem taxes, impact fees,
9 revenue, contract payments, grants, or other district money, or any
10 combination of those sources, to pay for any authorized district
11 purpose.

12 Sec. 8357.202. TAXES FOR BONDS. At the time the district
13 issues bonds payable wholly or partly from ad valorem taxes, the
14 board shall provide for the annual imposition of a continuing
15 direct ad valorem tax, without limit as to rate or amount, while all
16 or part of the bonds are outstanding as required and in the manner
17 provided by Sections 54.601 and 54.602, Water Code.

18 Sec. 8357.203. BONDS FOR ROAD PROJECTS. At the time of
19 issuance, the total principal amount of bonds or other obligations
20 issued or incurred to finance road projects and payable from ad
21 valorem taxes may not exceed one-fourth of the assessed value of the
22 real property in the district.

23 SECTION 2. The Brazoria County Municipal Utility District
24 No. 65 initially includes all the territory contained in the
25 following area:

26 THREE TRACTS OF LAND TOTALING 367.24 ACRES DESCRIBED AS FOLLOWS:

27 PARCEL 1:

1 A survey of 123.68 acres out of Lots 20 and 21 of the Bogart
2 and Taylor Subdivision of the West 1/2 of the W.D.C. Hall League,
3 Abstract 69 according to the Plat recorded in Volume 1, Page 64 of
4 the Map Records of Brazoria County, Texas (B.C.M.R), and being more
5 particularly described by metes and bounds as follows:

6 BEGINNING at the Southwest corner of Lot 20 at a concrete
7 monument set on the North right-of-way line of County Road #51 for
8 the most Southern Southwest corner of this tract and the POINT OF
9 BEGINNING;

10 THENCE, North 02 degrees 51 minutes 52 seconds West, along
11 the West lines of Lot 20, same being the East line of that tract of
12 land (Lots 10, 11, and 19, Bogart and Taylor) as described by deed
13 recorded in Clerk's File No. 85030634 of Brazoria County, Texas
14 (B.C.C.F.), a distance of 3,416.87 feet to the present Northwest
15 corner of Lot 20 and a point lying on the centerline of Ditch
16 316-00-00 as recorded in Iowa Colony Drainage District No. 5 for the
17 most Western Northwest corner of this tract;

18 THENCE, North 86 degrees 57 minutes 14 seconds East, along
19 the said centerline of Ditch 316-00-00, a distance of 1,707.48 feet
20 for the most Northern Northeast corner of this tract and lying on
21 the West right-of-way line of State Highway 288;

22 THENCE South 03 degrees 00 minutes 50 seconds East, along the
23 West right-of-way line of State Highway 288, a distance of 1,622.37
24 feet and to found concrete monument at an angle point in the East
25 line of the herein described tract and located at North:
26 13682078.1065 / East: 3107137.5618 (NAD83), point also being the
27 most Eastern corner of the herein described tract;

1 THENCE South 00 degrees 52 minutes 45 seconds West, along the
2 West right-of-way line of State Highway 288, a distance of 543.00
3 feet to a found concrete monument marking a point of curvature;

4 THENCE, along the West right-of-way line of State Highway
5 288, along said curve to the right having a radius of 1,041.74 feet
6 through a central angle of 46 degrees 27 minutes 46 seconds, an arc
7 length of 844.78 feet to a found concrete monument marking a point
8 of tangency, long chord of said curve bears South 24 degrees 16
9 minutes 16 seconds West, 821.82 feet;

10 THENCE South 47 degrees 31 minutes 18 seconds West, along the
11 West right-of-way line of State Highway 288, a distance of 140.03
12 feet to a found concrete monument marking the point of curvature of
13 another curve;

14 THENCE, along the West right-of-way line of State Highway
15 288, along said curve to the left having a radius of 525.00 feet
16 through a central angle of 47 degrees 48 minutes 38 seconds, an arc
17 length of 438.09 feet to a found concrete monument marking a point
18 of tangency, long chord of said curve bears South 23 degrees 41
19 minutes 02 seconds West, 425.49 feet;

20 THENCE South 43 degrees 06 minutes 27 seconds West, along the
21 West right-of-way line of State Highway 288 and the North
22 right-of-way of County Road 51, a distance of 36.74 feet to a found
23 concrete monument at an angle point and marking the Southwest
24 corner of said cut-back;

25 THENCE South 86 degrees 58 minutes 20 seconds West, along the
26 North right-of-way of County Road 51, a distance of 212.53 feet to a
27 found concrete monument at an angle point;

1 THENCE South 01 degrees 32 minutes 04 seconds East, along the
2 North right-of-way of County Road 51, a distance of 28.33 feet to a
3 found concrete monument at an angle point;

4 THENCE South 86 degrees 57 minutes 35 seconds West, along the
5 North line of County Road 51, a distance of 763.77 feet to a
6 concrete monument and the POINT OF BEGINNING and containing 123.68
7 acres of land, more or less, and being a part of the same property
8 described in the deed "Tract C" as described in the B.C.C.F. No.
9 2008-037928, to which deed and the record thereof reference is here
10 made for all appropriate purposes.

11 PARCEL 1A:

12 All that certain 103.61 acres tract of land, being a part of
13 that certain called 264.533 Acre Tract containing Lots 10, 11, and
14 19 of the Bogart and Taylor Subdivision of the West 1/2 of the
15 W.D.C. Hall League, Abstract 69, Brazoria County, Texas, a Plat of
16 record in Volume 16, at Pages 518 and 519 of the Deed Records of
17 Brazoria County, Texas (B.C.D.R.), and being that 264.533 Acre
18 Tract described in a deed from Buffet Inc. to Tehama Communities,
19 LLP recorded in Clerk's File (C.F.) 2005-069871, said 103.61 acres
20 tract of land being more particularly described as follows:

21 BEGINNING at a 4-inch square concrete monument found at the
22 Southeast corner of said Lot 19, said concrete monument being the
23 same described in that certain deed to Claud B. Hamill recorded in
24 Volume 1121, at Page 386 of the B.C.D.R., being also the Southwest
25 corner of Lot 20 of said Bogart and Taylor Subdivision;

26 THENCE South 87 degrees 02 minutes 24 seconds West, 1,319.26
27 feet coincident with the South line of said Lot 19, being also the

1 North line of County Road 51, a 60-foot wide right-of-way, to a
2 1-inch galvanized iron pipe found for corner at the Southwest
3 corner of said Lot 19;

4 THENCE North 03 degrees 02 minutes 53 seconds West, 3,420.00
5 feet coincident with the West line of said Lot 19 to a point for
6 corner, from which a 1/2-inch iron rod set for reference bears North
7 78 degrees 12 minutes 16 seconds East, 63.35 feet;

8 THENCE North 86 degrees 57 minutes 14 seconds East, 1,319.26
9 feet coincident with the North line of said Lot 19, being also the
10 South line of Lot 10 of said Bogart and Taylor Subdivision point
11 also being the Northeast corner of this tract;

12 THENCE South 03 degrees 02 minutes 53 seconds East, 3,421.98
13 feet coincident with the West line of said Claud B. Hamill tract to
14 the PLACE OF BEGINNING, containing 103.61 acres of land, more or
15 less.

16 PARCEL 2:

17 A survey of 139.95 acres of land, being a part of that certain
18 called 325.54 Acre Tract containing Lots 15, 16, and 17, and those
19 platted roads lying between said lots, of the Bogart and Taylor
20 Subdivision of the West 1/2 of the W.D.C. Hall League, Abstract 69,
21 Brazoria County, Texas, according to the Plat recorded in Volume 1,
22 Page 64, Plat Records, and Volume 16, Pages 518-519, Deed Records of
23 Brazoria County, Texas (B.C.D.R.), and being a part of that certain
24 called 326.04 Acre Tract described in a deed from Elmer M. Cannon,
25 Jr. to Tehama Communities, LLP recorded in Clerk's File (C.F.)
26 2006-074531, said 139.95 Acre Tract being more particularly
27 described as follows:

1 BEGINNING at a 3/4 inch iron pipe found in the West
2 right-of-way line of County Road 48 (60.0 feet wide) at the most
3 Eastern Southeast corner of the herein described tract and the
4 Northeast corner of a tract described in Volume 760, Page 411,
5 B.C.D.R., said point being located South 03 degrees 02 minutes 44
6 seconds East 4,399.65 feet from a sucker rod found at intersection
7 of the West right-of-way line of County Road 48 with the South
8 right-of-way line of County Road 841 (60.0 feet wide);

9 THENCE South 87 degrees 03 minutes 31 seconds West, along the
10 North line of said tract, 1,317.29 feet, to a 1- 1/4 inch iron pipe
11 found for corner at the Northwest corner of said tract described in
12 Volume 760, Page 411, B.C.D.R.;

13 THENCE South 04 degrees 01 minute 26 seconds East, along the
14 West line of said tract, 306.18 feet, to a 3 inch iron pipe found for
15 corner at the Northeast corner of the Stephen Coleman tract
16 described in C.F. 1998-011886;

17 THENCE South 87 degrees 08 minutes 31 seconds West, along the
18 North line of the Coleman tract, 1329.32 feet, to a 2 inch iron pipe
19 found for corner at the Southern most Southwest corner of the herein
20 tract and the aforesaid 326.04 Acre Tract;

21 THENCE North 02 degrees 42 minutes 18 seconds West, along the
22 West line of said 326.04 Acre Tract and the Easterly line of a
23 former 60.0 foot platted road, closed by document in Volume 1359,
24 Page 945, B.C.D.R., 661.35 feet, to a 1- 1/4 inch iron pipe found
25 for angle point;

26 THENCE North 03 degrees 07 minutes 30 seconds West,
27 continuing along the West line of said 326.04 Acre Tract and the

1 Easterly line of said platted road, 484.85 feet, to a 1/2 inch iron
2 rod capped "Stroud RPLS 2112" found for corner;

3 THENCE South 86 degrees 56 minutes 50 seconds West, along a
4 Southerly line of said 326.04 Acre Tract, at 60.0 feet pass a 1/2
5 inch iron rod capped "Stroud RPLS 2112" found in the West
6 right-of-way line of said 60.0 foot platted road, and continue for a
7 total distance of 983.63 feet to a 1/2 inch iron rod capped "Stroud
8 RPLS 2112" found for corner in the Northeast right-of-way line of
9 F.M. 521 (100.0 feet wide);

10 THENCE North 18 degrees 47 minutes 40 seconds West, along
11 said Northeast right-of-way line of F.M. 521, 959.36 feet, to the
12 centerline of a 60.0 foot platted road (not open) for corner, said
13 point being the Western most Northwest corner of the herein tract;

14 THENCE North 86 degrees 57 minutes 14 seconds East, along
15 said centerline of a 60.0 foot platted road (not open), 3,882.14
16 feet, to the aforesaid West right-of-way line of County Road 48 for
17 corner, said point being the Northern most Northeast corner for the
18 herein described tract;

19 THENCE South 03 degrees 02 minutes 44 seconds East, along the
20 said West right-of-way line of County Road 48, 1,770.06 feet, to the
21 POINT OF BEGINNING and containing 139.95 acres of land.

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

1 Government Code.

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

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

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

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