

By: Otto

H.B. No. 4802

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Liberty County Municipal Utility District No. 6; 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 8367 to read as follows:

CHAPTER 8367. LIBERTY COUNTY MUNICIPAL UTILITY DISTRICT NO. 6

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8367.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Liberty County Municipal Utility District No. 6.

Sec. 8367.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8367.003. 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. 8367.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8367.003 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. 8367.005. 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. 8367.006. 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 8367.007-8367.050 reserved for expansion]

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 8367.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five elected directors.

4 (b) Except as provided by Section 8367.052, directors serve
5 staggered four-year terms.

6 Sec. 8367.052. TEMPORARY DIRECTORS. (a) The temporary
7 board consists of:

8 (1) Mark Froehlich;

9 (2) Cynthia Gage;

10 (3) Greg Parker;

11 (4) Jeremy Newsom; and

12 (5) Cindy Leslie.

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

14 (1) the date permanent directors are elected under
15 Section 8367.003; or

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

18 (c) If permanent directors have not been elected under
19 Section 8367.003 and the terms of the temporary directors have
20 expired, successor temporary directors shall be appointed or
21 reappointed as provided by Subsection (d) to serve terms that
22 expire on the earlier of:

23 (1) the date permanent directors are elected under
24 Section 8367.003; or

25 (2) the fourth anniversary of the date of the
26 appointment or reappointment.

27 (d) If Subsection (c) applies, the owner or owners of a

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

7 [Sections 8367.053-8367.100 reserved for expansion]

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 8367.101. GENERAL POWERS AND DUTIES. The district has
10 the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8367.102. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 8367.103. AUTHORITY FOR ROAD PROJECTS. (a) Under
18 Section 52, Article III, Texas Constitution, the district may
19 design, acquire, construct, finance, issue bonds for, improve, and
20 convey to this state, a county, or a municipality for operation and
21 maintenance macadamized, graveled, or paved roads described by
22 Section 54.234, Water Code, or improvements, including storm
23 drainage, in aid of those roads.

24 (b) The district may exercise the powers provided by this
25 section without submitting a petition to or obtaining approval from
26 the Texas Commission on Environmental Quality as required by
27 Section 54.234, Water Code.

1 Sec. 8367.104. APPROVAL OF ROAD PROJECT. (a) The district
2 may not undertake a road project authorized by Section 8367.103
3 unless:

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

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

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

15 Sec. 8367.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
16 OR RESOLUTION. The district shall comply with all applicable
17 requirements of any ordinance or resolution that is adopted under
18 Section 54.016 or 54.0165, Water Code, and that consents to the
19 creation of the district or to the inclusion of land in the
20 district.

21 Sec. 8367.106. LIMITATION ON USE OF EMINENT DOMAIN. The
22 district may not exercise the power of eminent domain outside the
23 district to acquire a site or easement for:

24 (1) a road project authorized by Section 8367.103; or
25 (2) a recreational facility as defined by Section
26 49.462, Water Code.

27 Sec. 8367.107. DIVISION OF DISTRICT. (a) The district may

1 be divided into two or more new districts only if the district:

2 (1) has no outstanding bonded debt; and

3 (2) is not imposing ad valorem taxes.

4 (b) This chapter applies to any new district created by the
5 division of the district, and a new district has all the powers and
6 duties of the district.

7 (c) Any new district created by the division of the district
8 may not, at the time the new district is created, contain any land
9 outside the area described by Section 2 of the Act creating this
10 chapter.

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

15 (e) The board may adopt an order dividing the district
16 before or after the date the board holds an election under Section
17 8367.003 to confirm the district's creation.

18 (f) An order dividing the district:

19 (1) shall:

20 (A) name each new district;

21 (B) include the metes and bounds of each new
22 district;

23 (C) appoint temporary directors for each new
24 district, or provide that the owner or owners of a majority of the
25 assessed value of the real property in each new district may submit
26 a petition to the Texas Commission on Environmental Quality
27 requesting that the commission appoint as temporary directors the

1 five persons named in the petition; and

2 (D) provide for the division of assets and
3 liabilities between or among the new districts; and

4 (2) is subject to a confirmation election in each new
5 district.

6 (g) On or before the 30th day after the date of adoption of
7 an order dividing the district, the district shall file the order
8 with the Texas Commission on Environmental Quality and record the
9 order in the real property records of each county in which the
10 district is located.

11 (h) Any new district created by the division of the district
12 shall hold a confirmation and directors' election as required by
13 Section 8367.003. The results of that election must be filed as
14 required by Sections 49.102(e) and (f), Water Code. If the voters
15 of a new district do not confirm the creation of the new district,
16 the assets, liabilities, territory, and governance of the new
17 district revert to the original district.

18 (i) Municipal consent to the creation of the district and to
19 the inclusion of land in the district granted under Section
20 8367.004 acts as municipal consent to the creation of any new
21 district created by the division of the district and to the
22 inclusion of land in the new district.

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

27 [Sections 8367.108-8367.150 reserved for expansion]

1 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

2 Sec. 8367.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
3 district may issue, without an election, bonds and other
4 obligations secured by:

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

6 (2) contract payments described by Section 8367.153.

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

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

15 Sec. 8367.152. OPERATION AND MAINTENANCE TAX. (a) If
16 authorized at an election held under Section 8367.151, the district
17 may impose an operation and maintenance tax on taxable property in
18 the district in accordance with Section 49.107, Water Code.

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

21 Sec. 8367.153. CONTRACT TAXES. (a) In accordance with
22 Section 49.108, Water Code, the district may impose a tax other than
23 an operation and maintenance tax and use the revenue derived from
24 the tax to make payments under a contract after the provisions of
25 the contract have been approved by a majority of the district voters
26 voting at an election held for that purpose.

27 (b) A contract approved by the district voters may contain a

1 provision stating that the contract may be modified or amended by
2 the board without further voter approval.

3 [Sections 8367.154-8367.200 reserved for expansion]

4 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

5 Sec. 8367.201. AUTHORITY TO ISSUE BONDS AND OTHER
6 OBLIGATIONS. The district may issue bonds or other obligations
7 payable wholly or partly from ad valorem taxes, impact fees,
8 revenue, contract payments, grants, or other district money, or any
9 combination of those sources, to pay for any authorized district
10 purpose.

11 Sec. 8367.202. TAXES FOR BONDS. At the time the district
12 issues bonds payable wholly or partly from ad valorem taxes, the
13 board shall provide for the annual imposition of a continuing
14 direct ad valorem tax, without limit as to rate or amount, while all
15 or part of the bonds are outstanding as required and in the manner
16 provided by Sections 54.601 and 54.602, Water Code.

17 Sec. 8367.203. BONDS FOR ROAD PROJECTS. At the time of
18 issuance, the total principal amount of bonds or other obligations
19 issued or incurred to finance road projects and payable from ad
20 valorem taxes may not exceed one-fourth of the assessed value of the
21 real property in the district.

22 SECTION 2. The Liberty County Municipal Utility District
23 No. 6 initially includes all the territory contained in the
24 following area:

25 BEING A 1,393.8 ACRE TRACT OF LAND SITUATED IN THE MARY
26 MAGRUDER SURVEY, ABSTRACT 311, LIBERTY COUNTY, TEXAS, BEING OUT OF
27 THAT CALLED 3,696.8474 ACRE TRACT DESCRIBED IN DEED TO FORESTAR

1 (USA) REAL ESTATE GROUP INC. RECORDED UNDER FILE NUMBER 20070657801
2 OF THE HARRIS COUNTY DEED RECORDS AND FILE NUMBER 2007014954 OF THE
3 LIBERTY COUNTY DEED RECORDS, SAID 1,393.8 ACRE TRACT BEING MORE
4 PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS
5 BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS
6 DETERMINED BY GPS MEASUREMENTS):

7 BEGINNING AT A FOUND CONCRETE MONUMENT WITH BRASS DISK
8 STAMPED 'L7' FOR THE NORTHEAST CORNER OF THE CALLED 3,696.8474 ACRE
9 TRACT, THE NORTHEAST CORNER OF SAID MARY MAGRUDER SURVEY, A-311,
10 THE SOUTHEAST CORNER OF THE H.T.&B.R.R. NO. 13 1/2 SURVEY, A-635,
11 THE SOUTHWEST CORNER OF THE W. MCWILKINSON SURVEY, A-317, AND THE
12 NORTHWEST CORNER OF THE H.B. WITHAM SURVEY, A-395, FROM WHICH FOUND
13 A 1-1/2-INCH AXLE BEARS SOUTH 85° WEST, 0.6 FEET;

14 THENCE SOUTH 01°30'36" EAST, 5,337.88 FEET, ALONG THE COMMON
15 LINE BETWEEN SAID MARY MAGRUDER SURVEY, ABSTRACT 311, AND SAID H.B.
16 WITHAM SURVEY, ABSTRACT 395 TO A BROKEN CONCRETE MONUMENT FOUND ON
17 THE NORTH LINE OF THE E. KING SURVEY, ABSTRACT 57, AND MARKING THE
18 SOUTHWEST CORNER OF SAID H.B. WITHAM SURVEY, ABSTRACT 395, THE
19 SOUTHEAST CORNER OF THE MARY MAGRUDER SURVEY, ABSTRACT 311, AND THE
20 MOST EASTERLY SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, FROM
21 WHICH A 18-INCH PINE TREE BEARS SOUTH 30° WEST, 17.8 FEET AND A
22 36-INCH OAK BEARS NORTH 18° EAST, 29.3 FEET;

23 THENCE SOUTH 86°34'11" WEST, WITH THE NORTH LINE OF SAID E.
24 KING SURVEY, ABSTRACT 57, 10.33 FEET, TO A BROKEN CONCRETE MONUMENT
25 FOUND FOR AN ANGLE POINT IN THE EASTERLY SOUTH LINE OF THE HEREIN
26 DESCRIBED TRACT, FROM WHICH A FOUND AXLE BEARS SOUTH 24°51' EAST,
27 1.2 FEET;

1 THENCE SOUTH 88°14'17" WEST, WITH THE COMMON LINE BETWEEN SAID
2 MARY MAGRUDER SURVEY, ABSTRACT 311 AND SAID E. KING SURVEY,
3 ABSTRACT 57, 2,602.14 FEET TO A CONCRETE MONUMENT FOUND FOR AN ANGLE
4 POINT IN THE EASTERLY SOUTH LINE OF THE HEREIN DESCRIBED TRACT, FROM
5 WHICH A FOUND AXLE BEARS SOUTH 53°49' WEST, 1.1 FEET;

6 THENCE SOUTH 88°10'22" WEST, WITH THE COMMON LINE BETWEEN SAID
7 MARY MAGRUDER SURVEY, ABSTRACT 311 AND SAID E. KING SURVEY,
8 ABSTRACT 57, 8,068.22 FEET TO THE SOUTHWESTERLY CORNER OF THE
9 HEREIN DESCRIBED TRACT BEING IN THE COMMON LINE BETWEEN HARRIS
10 COUNTY AND LIBERTY COUNTY;

11 THENCE NORTH 20°11'08" WEST, WITH THE COMMON LINE BETWEEN
12 HARRIS COUNTY AND LIBERTY COUNTY, 5,390.36 FEET TO THE
13 NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED TRACT BEING IN A
14 NORTHERLY LINE OF THE AFOREMENTIONED 3,696.8474 ACRE TRACT;

15 THENCE NORTH 87°36'01" EAST, WITH THE NORTHERLY LINE OF SAID
16 3,696.8474 ACRE TRACT, 3,373.86 FEET TO A 1/2-INCH IRON ROD FOUND
17 FOR CORNER;

18 THENCE NORTH 02°23'59" WEST, CONTINUING ALONG THE NORTHERLY
19 LINE OF SAID 3,696.8474 ACRE TRACT, 100.00 FEET TO A CALCULATED
20 CORNER FROM WHICH A 1/2-INCH IRON ROD FOUND BEARS N0°W, 0.2 FEET AND
21 A 1/2-INCH IRON ROD FOUND BEARS N12°W, 6.7 FEET, BEING ON THE NORTH
22 LINE OF THE MARY MAGRUDER SURVEY, ABSTRACT 311 AND THE W.R. SEARCY
23 NO. 14 1/2 SURVEY, ABSTRACT 792, LIBERTY COUNTY, TEXAS;

24 THENCE NORTH 87°37'52" EAST, ALONG THE NORTH LINE OF THE MARY
25 MAGRUDER SURVEY, ABSTRACT 311 AND GENERALLY WITH THE SOUTH LINE OF
26 THE W.R. SEARCY NO. 14 1/2, ABSTRACT 792, AND THE SOUTH LINE OF SAID
27 H.T. & B. R.R. NO. 13 1/2 SURVEY, ABSTRACT 635, A DISTANCE OF

1 9,035.70 FEET TO THE POINT OF BEGINNING AND CONTAINING 1,393.8
2 ACRES OF LAND.

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

10 (b) The governor, one of the required recipients, has
11 submitted the notice and Act to the Texas Commission on
12 Environmental Quality.

13 (c) The Texas Commission on Environmental Quality has filed
14 its recommendations relating to this Act with the governor, the
15 lieutenant governor, and the speaker of the house of
16 representatives within the required time.

17 (d) All requirements of the constitution and laws of this
18 state and the rules and procedures of the legislature with respect
19 to the notice, introduction, and passage of this Act are fulfilled
20 and accomplished.

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