

By: Patrick

S.B. No. 1039

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Harris County Municipal Utility District No. 478; 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 8334 to read as follows:

CHAPTER 8334. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 478

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8334.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Harris County Municipal Utility District No. 478.

Sec. 8334.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8334.003. 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. 8334.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8334.003 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. 8334.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

5 (a) 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. 8334.006. 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 8334.007-8334.050 reserved for expansion]

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 8334.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five elected directors.

4 (b) Except as provided by Section 8334.052, directors serve
5 staggered four-year terms.

6 Sec. 8334.052. 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 8334.003; 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 8334.003 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 8334.003; 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 8334.053-8334.100 reserved for expansion]

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 8334.101. 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. 8334.102. 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. 8334.103. 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. 8334.104. APPROVAL OF ROAD PROJECT. (a) The district
3 may not undertake a road project authorized by Section 8334.103
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. 8334.105. 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. 8334.106. 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 8334.103; or

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

1 [Sections 8334.107-8334.150 reserved for expansion]

2 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3 Sec. 8334.151. ELECTIONS REGARDING TAXES OR BONDS.

4 (a) The 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 8334.153.

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. 8334.152. OPERATION AND MAINTENANCE TAX. (a) If
17 authorized at an election held under Section 8334.151, 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. 8334.153. 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 8334.154-8334.200 reserved for expansion]

5 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

6 Sec. 8334.201. 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. 8334.202. 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. 8334.203. 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 Harris County Municipal Utility District No.
24 478 initially includes all the territory contained in the following
25 area:

26 A METES AND BOUNDS description of a certain 566.80 acres of
27 land situated in the John Devine Survey, Abstract No. 238 and the

1 Isaac Ratcliff Survey, Abstract No. 664, in Harris County, Texas;
2 said 566.80 acre tract being more particularly described in two
3 tracts as follows:

4 TRACT 1 468.12 Acres

5 Field Notes for a certain 468.12 acre tract of land situated
6 in the John Devine Survey, Abstract No. 238 and the Isaac Ratcliff
7 Survey, Abstract No. 664 in Harris County, Texas; said 468.12 acre
8 tract being comprised of the following: a called 418.8430 acre
9 tract of land, less 1.5133 Acres, (Tract I) conveyed to JM Texas
10 Land Fund No. 4, L.P. by Correction General Warranty Deed recorded
11 under Clerk's File No. 20060281750 of the Harris County Official
12 Public Records of Real Property, a called 2.000 acre tract of land
13 conveyed to JM Texas Land Fund No. 4, L.P. by General Warranty Deed
14 recorded under Clerk's File No. Z374015 of the Harris County
15 Official Public Records of Real Property, a called 18.275 acre
16 tract of land conveyed to JM Texas Land Fund No. 4, L.P. by General
17 Warranty Deed recorded under Clerk's File No. Z224911 of the Harris
18 County Official Public Records of Real Property, a called 10.200
19 acre tract of land conveyed to JM Texas Land Fund No. 4, L.P. by
20 Special Warranty Deed recorded under Clerk's File No. Z254218 of
21 the Harris County Official Public Records of Real Property, and a
22 called 20.3175 acre tract of land (Tract II) conveyed to JM Texas
23 Land Fund No. 4, L.P. by Correction General Warranty Deed recorded
24 under Clerk's File No. 20060281750 of the Harris County Official
25 Public Records of Real Property; said 468.12 acre tract being more
26 particularly described as follows with all bearings based on a call
27 of North 89°41'54" East along the north line of said 418.8430 acre

1 tract;

2 BEGINNING at the southeast corner of said called 418.8430
3 acre tract, being the southeast corner of said Isaac Ratcliff
4 Survey and an interior corner of the H. Ehrenberg Survey, Abstract
5 No. 247;

6 THENCE, along the south line of said Isaac Ratcliff Survey
7 and a north line of said H. Ehrenberg Survey, the following three
8 (3) courses and distances:

9 1. South 89°58'59" West, 3754.53 feet to an angle point;

10 2. North 89°09'44" West, 1391.57 feet to a point at the
11 southwest corner of the aforementioned called 418.8430 acre tract,
12 and the southeast corner of the aforementioned called 18.275 acre
13 tract;

14 3. North 89°42'43" West, 150.00 feet to a point in the west
15 line of said Isaac Ratcliff Survey, the east line of the
16 aforementioned John Devine Survey, the southwest corner of said
17 called 18.275 acre tract, and the southeast corner of the
18 aforementioned called 10.200 acre tract;

19 THENCE, North 89°42'43" West, along the south line of said
20 John Devine Survey and a north line of said H. Ehrenberg Survey,
21 330.00 feet to a point at the southwest corner of said called 10.200
22 acre tract and the southeast corner of the aforementioned called
23 20.3175 acre tract of land;

24 THENCE, North 89°38'27" West, continuing along the south line
25 of said John Devine Survey, 650.00 feet to a northwesterly corner of
26 said H. Ehrenberg Survey and the northeast corner of the R. Hall
27 Survey, Abstract No. 349, continuing in all, a total distance of

1 660.00 feet to a point for corner the southwest corner of the
2 aforementioned called 20.3175 acre tract and the southwest corner
3 of the herein described tract;

4 THENCE, North 00°27'32" East, 1338.52 feet to a point for
5 corner at the northwest corner of said called 20.3175 acre tract;

6 THENCE, North 89°55'49" East, 660.00 feet to a point for
7 corner at the northeast corner of said called 20.3175 acre tract
8 being in the west line of the aforementioned called 10.200 acre
9 tract;

10 THENCE, North 00°27'28" East, along the west line of said
11 called 10.200 acre tract, 2.93 feet to a point for corner;

12 THENCE, South 89°42'43" East, 330.00 feet to a point for
13 corner being the northeast corner of said called 10.200 acre tract
14 being in the east line of the aforementioned John Devine Survey;

15 THENCE, North 00°27'28" East, along the east line of said John
16 Devine Survey, 3960.00 feet to a point for corner at the northwest
17 corner of the aforementioned called 18.275 acre tract being the
18 northeast corner of said John Devine Survey, the northwest corner
19 of the aforementioned Isaac Ratcliff Survey, the southeast corner
20 of the Stephen Jarboe Survey, Abstract No. 491, and the southwest
21 corner of the Moses Merritt Survey, Abstract No. 578

22 THENCE, South 89°59'45" East, along the south line of said
23 Moses Merritt Survey and the north line of said Isaac Ratcliff
24 Survey, 150.03 feet to a point for corner being the northwest corner
25 of said 18.275 acre tract;

26 THENCE, South 00°27'29" West, 1698.76 feet to a point for
27 corner being the northwest corner of the aforementioned called

1 418.8430 acre tract;
2 THENCE, North 89°41'54" East, 5076.30 feet to a point for
3 corner in the west right-of-way line of Katy Hockley Road;
4 THENCE, South 00°10'14" East, along the west right-of-way
5 line of Katy Hockley Road, 1406.32 feet to a point for corner;
6 THENCE, South 89°49'46" West, 660.00 feet to a point for
7 corner;
8 THENCE, South 00°10'14" East, 330.00 feet to a point for
9 corner;
10 THENCE, North 89°49'46" East, 660.00 feet to a point for
11 corner in the west right-of-way line of Katy Hockley Road;
12 THENCE, South 00°10'14" East, along the west right-of-way
13 line of Katy Hockley Road, 791.87 feet to a point for corner;
14 THENCE, South 87°57'45" West, 267.93 feet to a point for
15 corner;
16 THENCE, South 00°31'54" West, 48.05 feet to a point for
17 corner;
18 THENCE, South 89°08'31" West, 110.16 feet to a point for
19 corner;
20 THENCE, South 00°05'00" West, 127.00 feet to a point for
21 corner;
22 THENCE, South 81°56'26" East, 19.49 feet to a point for
23 corner;
24 THENCE, South 00°05'00" West, 61.00 feet to a point for
25 corner;
26 THENCE, South 89°38'27" East, 390.09 feet to a point for
27 corner in the east line of the aforementioned Isaac Ratcliff Survey

1 and the northeast corner of the aforementioned 2.000 acre tract;

2 THENCE, South 00°10'14" East, 873.64 feet to the POINT OF
3 BEGINNING, CONTAINING 468.12 acres of land in Harris County, Texas,
4 as shown on Drawing No. 6165 in the office of Cotton Surveying
5 Company in Houston, Texas.

6 TRACT 2 98.68 Acres

7 Field Notes for a certain 98.68 acre tract of land situated in
8 the John Devine Survey, Abstract No. 238 in Harris County, Texas;
9 said 98.68 acre tract being the same called 98.6751 acre tract of
10 land (Tract III) conveyed to JM Texas Land Fund No. 4, L.P. by
11 Correction General Warranty Deed recorded under Clerk's File No.
12 20060281750 of the Harris County Official Public Records of Real
13 Property; said 98.68 acre tract being more particularly described
14 as follows with all bearings based on a call of North 89°41'54" East
15 along the north line of a called 418.8430 acre tract of land (Tract
16 I) conveyed to JM Texas Land Fund No. 4, L.P. by Correction General
17 Warranty Deed recorded under Clerk's File No. 20060281750 of the
18 Harris County Official Public Records of Real Property;

19 COMMENCING at the southeast corner of said called 418.8430
20 acre tract, being the southeast corner of the Isaac Ratcliff
21 Survey, Abstract No. 664 and an interior corner of the H. Ehrenberg
22 Survey, Abstract No. 247;

23 THENCE, along the south line of said Isaac Ratcliff Survey
24 and a north line of said H. Ehrenberg Survey, the following three
25 (3) courses and distances:

- 26 1. South 89°58'59" West, 3754.53 feet to an angle point;
27 2. North 89°09'44" West, 1391.57 feet to a point at the

1 southwest corner of the aforementioned called 418.8430 acre tract;

2 3. North 89°42'43" West, 150.00 feet to a point in the west
3 line of said Isaac Ratcliff Survey, and the east line of the
4 aforementioned John Devine Survey;

5 THENCE, North 89°42'43" West, along the south line of said
6 John Devine Survey and the north line of said H. Ehrenberg Survey,
7 330.00 feet to a point being the southeast corner of a called
8 20.3175 acre tract of land (Tract II) conveyed to JM Texas Land Fund
9 No. 4, L.P. by Correction General Warranty Deed recorded under
10 Clerk's File No. 20060281750 of the Harris County Official Public
11 Records of Real Property;

12 THENCE, North 89°38'27" West, continuing along the south line
13 of said John Devine Survey, 650.00 feet to a northwesterly corner of
14 said H. Ehrenberg Survey and the northeast corner of the R. Hall
15 Survey, Abstract No. 349, continuing in all, a total distance of
16 660.00 feet to a point being the southwest corner of said called
17 20.3175 acre tract;

18 THENCE, North 89°38'27" West, 330.00 feet to the POINT OF
19 BEGINNING of the herein described 98.68 acre tract;

20 THENCE, North 89°38'27" West, continuing along the south line
21 of the said John Devine Survey and the north line of the said R. Hall
22 Survey, 3312.53 feet to a point for corner;

23 THENCE, North 00°12'43" East, 732.60 feet to a point for
24 corner;

25 THENCE, South 89°38'28" East, 271.60 feet to a point for
26 corner;

27 THENCE, North 00°14'06" East, 500.00 feet to a point for

1 corner;

2 THENCE, North 89°38'48" West, 871.20 feet to a point for
3 corner in the east right of way line of Warren Ranch Road;

4 THENCE, North 00°22'19" East, along said east right of way
5 line of Warren Ranch Road, 74.21 feet to a point for corner;

6 THENCE, North 89°55'49" East, 3917.53 feet to a point for
7 corner;

8 THENCE, South 00°27'35" West, 1336.05 feet to the POINT OF
9 BEGINNING, CONTAINING 98.68 acres of land in Harris County, Texas,
10 as shown on Drawing No. 6165 in the office of Cotton Surveying
11 Company in Houston, Texas.

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

19 (b) The governor, one of the required recipients, has
20 submitted the notice and Act to the Texas Commission on
21 Environmental Quality.

22 (c) The Texas Commission on Environmental Quality has filed
23 its recommendations relating to this Act with the governor, the
24 lieutenant governor, and the speaker of the house of
25 representatives within the required time.

26 (d) All requirements of the constitution and laws of this
27 state and the rules and procedures of the legislature with respect

1 to the notice, introduction, and passage of this Act are fulfilled
2 and accomplished.

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