

By: Hegar

S.B. No. 1241

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Water Control and Improvement District No. 10; 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 I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9034 to read as follows:

CHAPTER 9034. FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT

DISTRICT NO. 10

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9034.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Fort Bend County Water Control and Improvement District No. 10.

Sec. 9034.002. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9034.003. 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. 9034.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 9034.003

1 until each municipality in whose corporate limits or
2 extraterritorial jurisdiction the district is located has
3 consented by ordinance or resolution to the creation of the
4 district and to the inclusion of land in the district.

5 Sec. 9034.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

6 (a) The district is created to serve a public purpose and benefit.

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

8 (1) a water control and improvement district as
9 provided by general law and Section 59, Article XVI, Texas
10 Constitution; and

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

15 Sec. 9034.006. INITIAL DISTRICT TERRITORY. (a) The
16 district is initially composed of the territory described by
17 Section 2 of the Act creating this chapter.

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

22 (1) organization, existence, or validity;

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

26 (3) right to impose a tax; or

27 (4) legality or operation.

1 [Sections 9034.007-9034.050 reserved for expansion]

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 9034.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 9034.052, directors serve
6 staggered four-year terms.

7 Sec. 9034.052. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

- 9 (1) Jay Henry;
10 (2) Mark Schindler;
11 (3) David Vercellino;
12 (4) Chris Sitka; and
13 (5) Chrystal Seymour.

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

15 (1) the date permanent directors are elected under
16 Section 9034.003; 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 9034.003 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 9034.003; 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 Texas Commission on Environmental
4 Quality requesting that the commission appoint as successor
5 temporary directors the five persons named in the petition. The
6 commission shall appoint as successor temporary directors the five
7 persons named in the petition.

8 [Sections 9034.053-9034.100 reserved for expansion]

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 9034.101. 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. 9034.102. WATER CONTROL AND IMPROVEMENT DISTRICT
14 POWERS AND DUTIES. The district has the powers and duties provided
15 by the general law of this state, including Chapters 49 and 51,
16 Water Code, applicable to water control and improvement districts
17 created under Section 59, Article XVI, Texas Constitution.

18 Sec. 9034.103. 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. 9034.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road 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. 9034.105. 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 42.042, Local Government Code, and that consents to the
14 creation of the district or to the inclusion of land in the
15 district.

16 Sec. 9034.106. LIMITATION ON USE OF EMINENT DOMAIN. The
17 district may not exercise the power of eminent domain outside the
18 district to acquire a site or easement for:

- 19 (1) a road project authorized by Section 9034.103; or
20 (2) a recreational facility as defined by Section
21 49.462, Water Code.

22 Sec. 9034.107. FIRE DEPARTMENTS. (a) The district may
23 contract with the City of Richmond to perform firefighting services
24 in the district on the same terms that the municipality provides
25 firefighting services in the extraterritorial jurisdiction of the
26 municipality. The district, with voter approval, may issue bonds
27 payable from ad valorem taxes to pay for capital costs required

1 under the contract, including:

2 (1) the construction and purchase of facilities, land,
3 and equipment; and

4 (2) the provision of adequate water supply.

5 (b) Notwithstanding Sections 49.351(g), (h), and (i), Water
6 Code, if the district contracts with the City of Richmond to provide
7 firefighting services in the district, the district is not required
8 to submit a fire plan to the Texas Commission on Environmental
9 Quality for approval.

10 [Sections 9034.108-9034.150 reserved for expansion]

11 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

12 Sec. 9034.151. ELECTIONS REGARDING TAXES OR BONDS.

13 (a) The district may issue, without an election, bonds and other
14 obligations secured by:

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

16 (2) contract payments described by Section 9034.153.

17 (b) The district must hold an election in the manner
18 provided by Chapters 49 and 51, Water Code, to obtain voter approval
19 before the district may impose an ad valorem tax or issue bonds
20 payable from ad valorem taxes.

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

25 Sec. 9034.152. OPERATION AND MAINTENANCE TAX. (a) If
26 authorized at an election held under Section 9034.151, the district
27 may impose an operation and maintenance tax on taxable property in

1 the district in accordance with Section 49.107, Water Code.

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

4 Sec. 9034.153. CONTRACT TAXES. (a) In accordance with
5 Section 49.108, Water Code, the district may impose a tax other than
6 an operation and maintenance tax and use the revenue derived from
7 the tax to make payments under a contract after the provisions of
8 the contract have been approved by a majority of the district voters
9 voting at an election held for that purpose.

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

13 [Sections 9034.154-9034.200 reserved for expansion]

14 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

15 Sec. 9034.201. AUTHORITY TO ISSUE BONDS AND OTHER
16 OBLIGATIONS. The district may issue bonds or other obligations
17 payable wholly or partly from ad valorem taxes, impact fees,
18 revenue, contract payments, grants, or other district money, or any
19 combination of those sources, to pay for any authorized district
20 purpose.

21 Sec. 9034.202. TAXES FOR BONDS. At the time the district
22 issues bonds payable wholly or partly from ad valorem taxes, the
23 board shall provide for the annual imposition of a continuing
24 direct ad valorem tax, without limit as to rate or amount, while all
25 or part of the bonds are outstanding as required and in the manner
26 provided by Section 51.433, Water Code.

27 Sec. 9034.203. BONDS FOR ROAD PROJECTS. At the time of

1 issuance, the total principal amount of bonds or other obligations
2 issued or incurred to finance road projects and payable from ad
3 valorem taxes may not exceed one-fourth of the assessed value of the
4 real property in the district.

5 SECTION 2. The Fort Bend County Water Control and
6 Improvement District No. 10 initially includes all the territory
7 contained in the following area:

8 TRACT 1

9 BEING a 150.22 acre tract of land situated in the Knight &
10 White League, Abstract Number 46, Fort Bend County, Texas and being
11 all of the following tracts of land; a called 42.00 acre tract of
12 land described in an instrument filed for record under Fort Bend
13 County Clerk's File Number (F.B.C.C.F. No.) 2007072919, a called
14 4.248 acre tract of land described in an instrument filed for record
15 under F.B.C.C.F. No. 2007151784, a called 103.97 acre tract
16 described and recorded under F.B.C.C.F. No. 2007151785, said 150.22
17 acre tract of land being more particularly described by metes and
18 bounds as follows:

19 Bearing orientation is based on the Texas State Plane
20 Coordinate System, South Central Zone, NAD83.

21 BEGINNING at a 1-inch iron pipe (disturbed) found for the
22 northeast corner of said 42.00 acre tract and being in the south
23 right-of-way line of Farm-to-Market Road 359 (100-foot width), same
24 also being the northwest corner of Landscape Reserve "B" of Grand
25 River, a subdivision plat filed for record under Slide Number 1650A
26 of the Fort Bend County Plat Records;

27 THENCE S 02°38'36" E, along the east line of said 42.00 acre

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1 tract, the west line of said Landscape Reserve "B" and a west line
2 of Block 5 of said Grand River, at a distance of 520.70 feet pass a
3 5/8-inch iron rod found for the southwest corner of said Landscape
4 Reserve "B" and the northwest corner of Lot 1, Block 5 of said Grand
5 River, at a distance of 1,127.70 feet pass a 5/8-inch iron rod found
6 for the southwest corner of said Lot 1, Block 5 and the northwest
7 corner of Lot 2, Block 5 of said Grand River and continuing for a
8 total distance of 1,520.14 feet to a 1-inch iron pipe with a cap and
9 tack found for the southeast corner of said 42.00 acre tract, same
10 being the northeast corner of Lot 10, Block 5 of said Grand River;

11 THENCE S 87°50'53" W, along the south line of said 42.00 acre
12 tract and a north line of said Block 5 of said Grand River, at a
13 distance of 153.02 feet pass a 5/8-inch iron rod found for the
14 northwest corner of said Lot 10, Block 5 and the northeast corner of
15 Lot 11, Block 5 of said Grand River, at a distance of 722.00 feet
16 pass a 5/8-inch iron rod found for the northwest corner of said Lot
17 11, Block and the northeast corner of Lot 23, Block 5 of said Grand
18 River and continuing for a total distance of 1,288.35 feet to a
19 1-inch iron pipe with a cap and tack found for the southwest corner
20 said called 42.00 acre tract, same being the southeast corner of Lot
21 24, Block 5 and the northwest corner of Lot 23, Block 5 of said Grand
22 River, same also being in the east right-of-way line of Winner's
23 Circle (width varies) as shown on the plat of said Grand River;

24 THENCE N 02°33'25" W, a distance of 1,011.30 feet along a west
25 line of said 42.00 and the east line of Lot 24, Block 5 of said Grand
26 River to a 1-inch iron pipe with a cap and tack found for a northwest
27 corner of said 42.00 acre tract, the northeast corner of said Lot

1 24, Block 5, same also being in the south line of said 4.248 acre
2 tract of land;

3 THENCE S 89°18'56" W, a distance of 397.63 feet along the
4 south line of said 4.248 acre tract and a north line of said 42.00
5 acre tract and the north line of said Lot 24, Block 5 to a 1 1/4-inch
6 iron pipe found for the northwest corner of said Lot 24, Block 5;

7 THENCE S 02°33'25" E, along the east line of said 103.97 acre
8 tract and a west line of Block 5 of said Grand River, at a distance
9 of 861.00 feet pass through a 5/8-inch iron rod found for the
10 southwest corner of said Lot 24, Block 5 and the northwest corner of
11 Lot 25, Block 5 of said Grand River, at a distance of 1,285.05 feet
12 pass through a 5/8-inch iron rod found for the southwest corner of
13 said Lot 25 and the northwest corner of Lot 26, Block 5 of said Grand
14 River and continuing for a total distance of 1,596.28 feet to a
15 1-inch iron pipe found for the southeast corner of said 103.97 acre
16 tract, same being the southwest corner of said Lot 26, same also
17 being in the north line of Lot 27, Block 5 of said Grand River;

18 THENCE S 89°10'00" W, along the south line of said 103.97 acre
19 tract and a north line of said Block 5, at a distance of 839.79 feet
20 pass through a 5/8-inch iron rod found for the northwest corner of
21 Lot 32, Block 5 and the northeast corner of Lot 33, Block 5 of said
22 Grand River, at a distance of 1,099.79 feet pass through a 5/8-inch
23 iron rod found for the northwest corner of said Lot 33 and the
24 northeast corner of Lot 34, Block 5 of said Grand River, at a
25 distance of 2,014.78 feet pass a 5/8-inch iron rod found for the
26 northwest corner of said Lot 34, same being in the east right-of-way
27 line of McCrary Road (width varies), same also being the northeast

1 corner of a 35-foot wide roadway dedication as shown on the plat of
2 said Grand River and continuing for a total distance of 2,049.79
3 feet to a 5/8-inch iron rod with a cap stamped "Brown & Gay" found
4 for the southwest corner of said called 103.97 acre tract, same
5 being in the east line of McCrary Road (as occupied, width varies);

6 THENCE N 02°08'00" W, a distance of 2,134.43 feet along the
7 west line of said 103.97 acre tract and the east line of said
8 McCrary Road (as occupied, width varies) to a 5/8-inch iron rod with
9 a cap stamped "Brown & Gay" found for the northwest corner of said
10 called 103.97 acre tract, same being the intersection of the east
11 right-of-way line of said McCrary Road with the south right-of-way
12 line of Farm-to-Market Road 359 (100-foot width) as described in
13 the following instruments of record: Volume 127, Page 521, Volume
14 130, Page 20 and Volume 130, Page 178, all of the Fort Bend County
15 Deed Records;

16 THENCE N 89°13'09" E, a distance of 2,703.55 feet along the
17 north line of said 103.97 acre tract and said 4.248 acre tract,
18 being the south right-of-way line of said Farm-to-Market Road 359
19 to a 3/4-inch iron pipe found for the northeast corner of said 4.248
20 acre tract and the northwest corner of said 42.00 acre tract;

21 THENCE N 89°05'34" E, a distance of 1,014.69 feet continuing
22 along said south right-of-way line and the north line of said 42.00
23 acre tract to the POINT OF BEGINNING and containing 150.22 acres of
24 land.

25 TRACT 2

26 BEING a 1.628 acre tract of land situated in the Randall Jones
27 Survey, Abstract Number 42, Fort Bend County, Texas and being all of

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1 a called 1.4364 acre tract of land described in an instrument filed
2 for record under Fort Bend County Clerk's File Number (F.B.C.C.F.
3 No.) 2008028142 and a called 0.1928 acre tract described and
4 recorded under F.B.C.C.F. No. 2008028143, said 1.628 acre tract of
5 land being more particularly described by metes and bounds as
6 follows:

7 Bearing orientation is based on the Texas State Plane
8 Coordinate System, South Central Zone, NAD83.

9 BEGINNING at the northeast corner of said 1.4364 acre tract
10 and the northwest corner of a called 1.71 acre tract described and
11 recorded under F.B.C.C.F. No. 2003174431 and being in the south
12 right-of-way line of Farm-to-Market Road 359 (100-foot width),

13 THENCE S 02°49'28" E, a distance of 148.50 feet along the east
14 line of said 1.4364 acre tract and the west line of said 1.71 acre
15 tract to the southeast corner of the herein described tract and
16 being in the north line of Lot 4, Block 1 of Grand River, a
17 subdivision of record as shown on the plat filed for record under
18 Slide Number 1650A of the Fort Bend County Plat Records

19 THENCE S 87°31'27" W, a distance of 458.09 feet along the
20 south line of said 1.4364 acre tract and a north line of Block 1 of
21 said Grand River to the southwest corner of the herein described
22 tract;

23 THENCE N 02°28'11" W, a distance of 161.51 feet along the west
24 line of said 0.1928 acre tract and the east line of Reserve "A" of
25 said Grand River to the northwest corner of the herein described
26 tract and being in the south right-of-way line of said
27 Farm-to-Market Road 359;

1 THENCE N 89°09'17" E, a distance of 457.36 feet along said
2 south right-of-way line to the POINT OF BEGINNING and containing
3 1.628 acres of land.

4 TRACT 3

5 BEING a 2.813 acre tract of land situated in the Randall Jones
6 Survey, Abstract Number 42, Fort Bend County, Texas and being all of
7 a called 2.6207 acre tract of land described in an instrument filed
8 for record under Fort Bend County Clerk's File Number (F.B.C.C.F.
9 No.) 2008028142 and a called 0.1937 acre tract described and
10 recorded under F.B.C.C.F. No. 2008028143, said 2.813 acre tract of
11 land being more particularly described by metes and bounds as
12 follows:

13 Bearing orientation is based on the Texas State Plane
14 Coordinate System, South Central Zone, NAD83.

15 BEGINNING at the southeast corner of said 2.6207 acre tract
16 and the southwest corner of a called 1.977 acre tract described and
17 recorded under F.B.C.C.F. No. 8521110 and being in the north
18 right-of-way line of Farm-to-Market Road 359 (100-foot width),

19 THENCE S 89°09'17" W, a distance of 268.02 feet along the
20 north right-of-way line of said Farm-to-Market Road 359 to the
21 southwest corner of the herein described tract and the southeast
22 corner of a called East 1/2 of 5.57 acre tract described and
23 recorded under F.B.C.C.F. No. 2001013676;

24 THENCE N 02°06'33" W, a distance of 430.59 feet along the west
25 line of said 0.1937 acre tract and the east line of said 5.57 acre
26 tract to the most westerly northwest corner of the herein described
27 tract;

1 THENCE S 54°07'18" E, a distance of 21.80 feet to an angle
2 point being in the west line of said 2.6207 acre tract;

3 THENCE N 02°49'28" W, a distance of 125.51 feet along the west
4 line of said 2.6207 acre tract

5 to the most northern northwest corner of the herein described
6 tract and being in the centerline of Jones Creek;

7 THENCE along the centerline meanders of said Jones Creek the
8 following three (3) courses:

9 S 56°52'58" E, 85.68 feet to an angle point;

10 S 62°55'35" E, 103.32 feet to an angle point;

11 S 59°06'36" E, 101.79 feet to the northeast corner of said
12 2.6207 acre tract and the northwest corner of said 1.977 acre tract;

13 THENCE S 03°05'43" E, a distance of 393.40 feet along the line
14 common to said 2.6207 acre tract and said 1.977 acre tract to the
15 POINT OF BEGINNING and containing 2.813 acres of land.

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

23 (b) The governor, one of the required recipients, has
24 submitted the notice and Act to the Texas Commission on
25 Environmental Quality.

26 (c) The Texas Commission on Environmental Quality has filed
27 its recommendations relating to this Act with the governor, the

1 lieutenant governor, and the speaker of the house of
2 representatives within the required time.

3 (d) All requirements of the constitution and laws of this
4 state and the rules and procedures of the legislature with respect
5 to the notice, introduction, and passage of this Act are fulfilled
6 and accomplished.

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