

By: Zerwas

H.B. No. 2285

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 211; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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 8463 to read as follows:

CHAPTER 8463. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 211

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8463.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Fort Bend County Municipal Utility District No. 211.

Sec. 8463.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8463.003. 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.

1 Sec. 8463.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 8463.003
3 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 8463.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
8 The district is created to serve a public purpose and benefit.

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

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

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

16 Sec. 8463.006. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

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

23 (1) organization, existence, or validity;

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

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 8463.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8463.052, directors serve
6 staggered four-year terms.

7 Sec. 8463.052. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

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

15 (1) the date permanent directors are elected under
16 Section 8463.003; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 8463.003 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 8463.003; 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 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 8463.101. 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. 8463.102. 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. 8463.103. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 8463.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
24 project must meet all applicable construction standards, zoning and
25 subdivision requirements, and regulations of each municipality in
26 whose corporate limits or extraterritorial jurisdiction the road
27 project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards, zoning and
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 8463.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
10 OR RESOLUTION. The district shall comply with all applicable
11 requirements of any ordinance or resolution that is adopted under
12 Section 54.016 or 54.0165, Water Code, and that consents to the
13 creation of the district or to the inclusion of land in the
14 district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 8463.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
17 district may issue, without an election, bonds and other
18 obligations secured by:

- 19 (1) revenue other than ad valorem taxes; or
20 (2) contract payments described by Section 8463.153.

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

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8463.152. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8463.151, the district
4 may impose an operation and maintenance tax on taxable property in
5 the district in accordance with Section 49.107, Water Code.

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

8 Sec. 8463.153. CONTRACT TAXES. (a) In accordance with
9 Section 49.108, Water Code, the district may impose a tax other than
10 an operation and maintenance tax and use the revenue derived from
11 the tax to make payments under a contract after the provisions of
12 the contract have been approved by a majority of the district voters
13 voting at an election held for that purpose.

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

17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

18 Sec. 8463.201. AUTHORITY TO ISSUE BONDS AND OTHER
19 OBLIGATIONS. The district may issue bonds or other obligations
20 payable wholly or partly from ad valorem taxes, impact fees,
21 revenue, contract payments, grants, or other district money, or any
22 combination of those sources, to pay for any authorized district
23 purpose.

24 Sec. 8463.202. TAXES FOR BONDS. At the time the district
25 issues bonds payable wholly or partly from ad valorem taxes, the
26 board shall provide for the annual imposition of a continuing
27 direct ad valorem tax, without limit as to rate or amount, while all

1 or part of the bonds are outstanding as required and in the manner
2 provided by Sections 54.601 and 54.602, Water Code.

3 Sec. 8463.203. BONDS FOR ROAD PROJECTS. At the time of
4 issuance, the total principal amount of bonds or other obligations
5 issued or incurred to finance road projects and payable from ad
6 valorem taxes may not exceed one-fourth of the assessed value of the
7 real property in the district.

8 SECTION 2. The Fort Bend County Municipal Utility District
9 No. 211 initially includes all the territory contained in the
10 following area:

11 BEING a 1259.60 acre tract of land situated in the John Foster
12 2-1/2 League Grant, Abstract No. 26 of Fort Bend County, Texas and
13 being part of a called 1410.69 acre tract of land described as
14 Second Tract and all of a called 20.6 acre tract described as Third
15 Tract also all of a called 16.3 acre tract described as Fifth Tract
16 in a conveyance to Foster Farms, Inc. recorded in Volume 362, Page
17 549 of the Fort Bend County Deed Records (F.B.C.D.R.), said 1259.60
18 acre tract of land described by metes and bounds as follows:

19 BEGINNING at the most easterly northeast corner of said
20 1410.69 acre tract and being in the eastern line of said John Foster
21 2-1/2 League Grant and the western line of the William Andrews
22 League, Abstract No. 3 of Fort Bend County also being in the west
23 line of a called 174.27 acre tract described and recorded in Volume
24 495, Page 841 of the F.B.C.D.R.;

25 THENCE, along the east lines of said 1410.69 acre tract and
26 the west lines of said 174.27 acre tract and a called 6.5331 acre
27 tract described and recorded under F.B.C.C.F. No. 9818471 and a

1 called 3.6430 acre tract described and recorded under F.B.C.C.F.
2 No.9812369 also a called 194.2072 acre tract described and recorded
3 under F.B.C.C.F. No. 2001015964 the following courses and
4 distances:

5 S 00° 06' 00" E, a distance of 8,803.69 feet to a point
6 for corner;

7 S 03° 02' 20" W, a distance of 1,460.00 feet to the
8 northwest corner of a called 132 acres described and recorded under
9 F.B.C.C.F. No. 9465434;

10 THENCE, along the southern lines of said 1410.69 acre tract
11 and the northern lines of Evans Road (40-foot wide) the following
12 courses and distances:

13 S 70° 59' 40" W, a distance of 193.60 feet to a point for
14 corner;

15 S 83° 22' 20" W, a distance of 94.60 feet to a point for
16 corner;

17 N 78° 41' 00" W, a distance of 123.30 feet to a point for
18 corner;

19 N 70° 30' 40" W, a distance of 196.30 feet to a point for
20 corner;

21 N 60° 46' 40" W, a distance of 154.40 feet to a point for
22 corner;

23 N 54° 14' 30" W, a distance of 2,586.55 feet to a point
24 for corner;

25 N 60° 10' 20" W, a distance of 167.80 feet to a point for
26 corner;

27 N 64° 29' 30" W, a distance of 1,714.80 feet to a point

1 for corner;

2 THENCE, S 16° 49' 30" W, a distance of 40.16 feet over said
3 Evans Road to the northeast corner of said 16.3 acre tract and the
4 northwest corner of a called 30 acre tract described and recorded
5 under F.B.C.C.F. No. 2002110527;

6 THENCE, S 00° 20' 00" W, a distance of 1,155.74 feet along the
7 line common to said 16.3 acre tract and said 30 acre tract to a point
8 for corner and being approximately 200-feet from the northern high
9 bank of the Brazos River;

10 THENCE, N 32° 26' 29" W, a distance of 2,756.87 feet along a
11 line approximately 200-feet from the northern high bank of the
12 Brazos River to the southwest corner of the herein described tract
13 and being in the east line of a called 3063.45 acre tract described
14 as First Tract in the deed recorded in Volume 362, Page 549 of the
15 F.B.C.D.R.;

16 THENCE, NORTH, a distance of 6,932.93 feet along the line
17 common to said 3063.45 acre tract and said 1410.69 acre tract to the
18 northwest corner of the herein described tract and being in the
19 southern right-of-way line of Beadle Drive (80-foot wide);

20 THENCE, N 89° 58' 40" E, a distance of 5,735.23 feet along
21 said southern right-of-way line to a point for corner;

22 THENCE, S 00° 40' 10" E, a distance of 222.50 feet to a point
23 for corner;

24 THENCE, S 88° 36' 40" E, a distance of 331.42 feet to the POINT
25 OF BEGINNING and containing 1259.60 acres of land.

26 SECTION 3. (a) The legal notice of the intention to
27 introduce this Act, setting forth the general substance of this

1 Act, has been published as provided by law, and the notice and a
2 copy of this Act have been furnished to all persons, agencies,
3 officials, or entities to which they are required to be furnished
4 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5 Government Code.

6 (b) The governor, one of the required recipients, has
7 submitted the notice and Act to the Texas Commission on
8 Environmental Quality.

9 (c) The Texas Commission on Environmental Quality has filed
10 its recommendations relating to this Act with the governor, the
11 lieutenant governor, and the speaker of the house of
12 representatives within the required time.

13 (d) All requirements of the constitution and laws of this
14 state and the rules and procedures of the legislature with respect
15 to the notice, introduction, and passage of this Act are fulfilled
16 and accomplished.

17 SECTION 4. (a) If this Act does not receive a two-thirds
18 vote of all the members elected to each house, Subchapter C, Chapter
19 8463, Special District Local Laws Code, as added by Section 1 of
20 this Act, is amended by adding Section 8463.106 to read as follows:

21 Sec. 8463.106. NO EMINENT DOMAIN POWER. The district may
22 not exercise the power of eminent domain.

23 (b) This section is not intended to be an expression of a
24 legislative interpretation of the requirements of Section 17(c),
25 Article I, Texas Constitution.

26 SECTION 5. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2013.