

By: Thompson of Brazoria

H.B. No. 3881

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 49; 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 8427 to read as follows:

CHAPTER 8427. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 49

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8427.001. 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 Brazoria County Municipal Utility District No. 49.

Sec. 8427.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8427.003. 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. 8427.004. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section 8427.003  
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. 8427.005. 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. 8427.006. 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. 8427.051. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 8427.052, directors serve  
6 staggered four-year terms.

7           Sec. 8427.052. 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 8427.003; 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 8427.003 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 8427.003; 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. 8427.101. 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. 8427.102. 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. 8427.103. 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. 8427.104. 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,  
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. 8427.105. 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. 8427.151. 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 8427.153.

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. 8427.152. OPERATION AND MAINTENANCE TAX. (a) If  
3 authorized at an election held under Section 8427.151, 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. 8427.153. 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. 8427.201. 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. 8427.202. 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. 8427.203. 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 Brazoria County Municipal Utility District  
9 No. 49 initially includes all the territory contained in the  
10 following area:

11 Being a 295.76 acre tract of land out of the Francis Moore  
12 League, Abstract 100, Brazoria County, Texas; and being out of and a  
13 portion of that certain called 2,075.08 acre tract of land as  
14 conveyed in Special Warranty Deed to SUNTEX FULLER CORPORATION,  
15 recorded in Clerk's File Number 99-003294 of the Official Public  
16 Records of Real Property in Brazoria County, Texas; said 295.76  
17 acre tract of land is more particularly described by metes and  
18 bounds as follows;

19 COMMENCING at the Northwest corner of said 2,075.08 acre  
20 tract of land, the Northwest corner of said Francis Moore League,  
21 Abstract-100, being in the Centerline of F.M. 1462 (120-foot wide  
22 right-of-way) as described in Volume 303, Page 215 in Deed Records  
23 of Brazoria County, Texas; said point being at the intersection of  
24 said Centerline F.M. 1462 and the East right-of-way line of County  
25 Road 511 as recorded in Volume 548, Page 544 of the Deed Records of  
26 Brazoria County, Texas;

27 THENCE South 27° 03' 00" East with the Southwesterly line of

1 said 2,075.08 acre tract, the Southwesterly line of Savannah  
2 Plantation, Section One, Block 1 (Unrecorded) passing at 60.00  
3 feet, the Southeasterly right-of-way line of said F.M. 1462,  
4 continuing with the Southwesterly line of said 2,075.08 acre tract,  
5 the Northeasterly right-of-way line of said County Road 511, in all  
6 a distance of 1,973.55 feet to the Southwest corner of said Savannah  
7 Plantation, Section One, Block 1 and the POINT OF BEGINNING of the  
8 herein described tract of land;

9       THENCE with the South and East lines of said Savannah  
10 Plantation, Section One, Block 1 as follows:

- 11       - South 84° 05' 00" East, 862.55 feet to a point for corner;
- 12       - North 62° 57' 00" East, 476.33 feet to a point for corner;
- 13       - North 27° 03' 00" West, 569.87 feet to a point for the  
14 Southwest corner of Savannah Plantation, Section Two as recorded in  
15 Volume 20, Pages 333-334 of the Map Records of Brazoria County,  
16 Texas;

17       THENCE North 60° 26' 18" East with the Southeasterly line of  
18 said Savannah Plantation, Section Two, 2,866.75 feet to a point for  
19 corner, said point being the Northwest corner of Savannah  
20 Plantation, Section Three as recorded in Volume 21, Pages 1-2 of the  
21 Map Records of Brazoria County, Texas; said point also being in the  
22 Southwesterly right-of-way line of Savannah Plantation Drive (150'  
23 right-of-way) as recorded in said Section Three;

24       THENCE South 27° 01' 02" East with the Southwesterly  
25 right-of-way line of said Savannah Plantation Road, the  
26 Southwesterly line of said Savannah Plantation, Section Three,  
27 436.03 feet to a point for the Northeast corner of a called 2.84



1 acre tract of land conveyed to S.P. Utility Company, Inc. as  
2 recorded in File Number 2003-040036 of the Clerk's Files of  
3 Brazoria County, Texas;

4       THENCE South 62° 58' 58" West with the Northwesterly line of  
5 said 2.84 acre tract, 382.38 feet to a point for the Northwest  
6 corner of said 2.84 acre tract;

7       THENCE South 19° 16' 54" East with the West line of said 2.84  
8 acre tract, 287.03 feet to a point for the Southwest corner of said  
9 2.84 acre tract;

10       THENCE North 70° 43' 06" East with the South line of said 2.84  
11 acre tract, 223.05 feet to an angle point for corner;

12       THENCE North 62° 58' 58" East with the Southeasterly line of  
13 said 2.84 acre tract, 200.00 feet to a point for the Southeast  
14 corner of said tract, being in the Southwesterly right-of-way line  
15 of said Savannah Plantation Road, the Southwesterly line of said  
16 Savannah Plantation, Section Three;

17       THENCE South 27° 01' 02" East with said Southwesterly  
18 right-of-way line, the Southwesterly line of said Savannah  
19 Plantation, Section Three, 304.52 feet to a point for the Northeast  
20 corner of a called 1.00 acre tract of land conveyed to S.P. Utility  
21 Company, Inc. as recorded in File Number 2003-040036 of the Clerk's  
22 Files of Brazoria County, Texas;

23       THENCE South 62° 58' 58" West with the Northwesterly line of  
24 said 1.00 acre tract, 181.50 feet to a point for the Northwest  
25 corner of said 1.00 acre tract;

26       THENCE South 27° 01' 02" East with the Westerly line of said  
27 1.00 acre tract, 240.00 feet to a point for the Southwest corner of

1 said 1.00 acre tract;

2           THENCE North 62° 58' 58" East with the Southerly line of said  
3 1.00 acre tract, 181.50 feet to a point for the Southeast corner of  
4 said 1.00 acre tract, being in said Southwesterly right-of-way line  
5 of Savannah Plantation Road, the Southwesterly line of said  
6 Savannah Plantation, Section Three;

7           THENCE with the West line of said Savannah Plantation,  
8 Section Three, as follows:

9           - South 27° 01' 02" East, 153.29 feet to a point for corner,  
10 at the beginning of a curve to the right;

11           - Along the arc of said curve to the right, having a chord of  
12 South 10° 29' 48" East, 355.45 feet, a radius of 625.00 feet, a  
13 central angle of 33° 02' 27", for an arc length of 360.42 feet to a  
14 point for corner;

15           - South 06° 01' 25" West, 492.47 feet to a point for corner;

16           - North 83° 58' 35" West, 50.00 feet to a point for corner;

17           - South 06° 01' 25" West, 80.00 feet to a point for corner;

18           - South 83° 58' 35" East, 147.19 feet to a point for corner;

19           - South 06° 01' 25" West, 390.00 feet to a point for the  
20 Southwest corner of said Savannah Plantation, Section Three;

21           THENCE South 83° 58' 35" East with the South line of said  
22 Savannah Plantation, Section Three, 2,543.73 feet to a point for  
23 the Easternmost corner of the herein described tract of land;

24           THENCE South 62° 54' 39" West with the Southeasterly line of  
25 the herein described tract of land, the Northwesterly line of  
26 Brazoria County Municipal Utility District Number 50, 498.21 feet  
27 to a point for corner;

1           THENCE South 63° 00' 17" West continuing with the  
2 Southeasterly line of the herein described tract of land, the  
3 Northwesterly line of Brazoria County Municipal Utility District  
4 Number 50, 3,951.47 feet to a point for the Southernmost Southwest  
5 corner of the herein described tract of land, being in the  
6 Northeasterly line of Savannah Plantation, Section One, Block 4  
7 (Unrecorded);

8           THENCE North 27° 03' 00" West with said Northeasterly line of  
9 said Section One, Block 4, 828.21 feet to a point for the Northeast  
10 corner of said Section One, Block 4;

11           THENCE South 62° 57' 00" West with the Northwesterly line of  
12 said Section One, Block 4, 1,200.00 feet to a point for the  
13 Northwest corner of said Section One, Block 4, being in the common  
14 line between the Southwesterly line of said 2,075.08 acre tract of  
15 land and the Northeasterly right-of-way line of said County Road  
16 511;

17           THENCE North 27° 03' 00" West with said common line, 80.00  
18 feet to a point for the Southwest corner of Savannah Plantation,  
19 Section One, Block 3 (Unrecorded);

20           THENCE North 62° 57' 00" East with the Southeasterly line of  
21 said Section One, Block 3, 1,200.00 feet to a point for the  
22 Southeast corner of said Section One, Block 3;

23           THENCE with the Northeasterly and Northwesterly lines of said  
24 Savannah Plantation, Section One, Block 3 as follows:

- 25           - North 27° 03' 00" West, 280.00 feet to a point for corner;
- 26           - South 62° 57' 00" West, 474.00 feet to a point for corner;
- 27           - North 27° 03' 00" West, 1,515.00 feet to a point for

1 corner;

2 - South 62° 57' 00" West, 126.00 feet to a point for corner;

3 - North 27° 03' 00" West, 619.43 feet to a point for the  
4 Northeast corner of said Section One, Block 3;

5 THENCE North 84° 05' 00" West with the North line of said  
6 Savannah Plantation, Section One, Block 3, 715.15 feet to a point  
7 for the Northwest corner of said Section One, Block 3, being in the  
8 common line between the Southwesterly line of said 2,075.08 acre  
9 tract of land and the Northeasterly right-of-way line of said  
10 County Road 511;

11 THENCE North 27° 03' 00" West with said common line, 95.35  
12 feet to the POINT OF BEGINNING; containing 295.76 acres of land,  
13 more or less.

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

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

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

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

5           SECTION 4. (a) If this Act does not receive a two-thirds  
6 vote of all the members elected to each house, Subchapter C, Chapter  
7 8427, Special District Local Laws Code, as added by Section 1 of  
8 this Act, is amended by adding Section 8427.106 to read as follows:

9           Sec. 8427.106. NO EMINENT DOMAIN POWER. The district may  
10 not exercise the power of eminent domain.

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

14           SECTION 5. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2013.