

By: Zerwas

H.B. No. 3887

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fulshear Municipal Utility District No. 2; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, or 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 8480 to read as follows:

CHAPTER 8480. FULSHEAR MUNICIPAL UTILITY DISTRICT NO. 2

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8480.001. 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 Fulshear Municipal Utility District No. 2.

Sec. 8480.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8480.003. 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. 8480.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 8480.003
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. 8480.005. 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. 8480.006. 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. 8480.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8480.052, directors serve
6 staggered four-year terms.

7 Sec. 8480.052. TEMPORARY DIRECTORS. (a) On or after
8 September 1, 2013, the owner or owners of a majority of the assessed
9 value of the real property in the district may submit a petition to
10 the commission requesting that the commission appoint as temporary
11 directors the five persons named in the petition. The commission
12 shall appoint as temporary directors the five persons named in the
13 petition.

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

15 (1) the date permanent directors are elected under
16 Section 8480.003; or

17 (2) September 1, 2017.

18 (c) If permanent directors have not been elected under
19 Section 8480.003 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 8480.003; 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 commission requesting that the
3 commission appoint as successor temporary directors the five
4 persons named in the petition. The commission shall appoint as
5 successor temporary directors the five persons named in the
6 petition.

7 SUBCHAPTER C. POWERS AND DUTIES

8 Sec. 8480.101. GENERAL POWERS AND DUTIES. The district has
9 the powers and duties necessary to accomplish the purposes for
10 which the district is created.

11 Sec. 8480.102. MUNICIPAL UTILITY DISTRICT POWERS AND
12 DUTIES. The district has the powers and duties provided by the
13 general law of this state, including Chapters 49 and 54, Water Code,
14 applicable to municipal utility districts created under Section 59,
15 Article XVI, Texas Constitution.

16 Sec. 8480.103. AUTHORITY FOR ROAD PROJECTS. Under Section
17 52, Article III, Texas Constitution, the district may design,
18 acquire, construct, finance, issue bonds for, improve, operate,
19 maintain, and convey to this state, a county, or a municipality for
20 operation and maintenance macadamized, graveled, or paved roads, or
21 improvements, including storm drainage, in aid of those roads.

22 Sec. 8480.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
23 project must meet all applicable construction standards, zoning and
24 subdivision requirements, and regulations of each municipality in
25 whose corporate limits or extraterritorial jurisdiction the road
26 project is located.

27 (b) If a road project is not located in the corporate limits

1 or extraterritorial jurisdiction of a municipality, the road
2 project must meet all applicable construction standards,
3 subdivision requirements, and regulations of each county in which
4 the road project is located.

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

8 Sec. 8480.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
9 OR RESOLUTION. (a) The district shall comply with all applicable
10 requirements of any ordinance or resolution that is adopted under
11 Section 54.016 or 54.0165, Water Code, and that consents to the
12 creation of the district or to the inclusion of land in the
13 district.

14 (b) Section 54.016(f), Water Code, does not apply to the
15 district.

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 8480.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
18 district may issue, without an election, bonds and other
19 obligations secured by:

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

21 (2) contract payments described by Section 8480.153.

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

26 (c) The district may not issue bonds payable from ad valorem
27 taxes to finance a road project unless the issuance is approved by a

1 vote of a two-thirds majority of the district voters voting at an
2 election held for that purpose.

3 Sec. 8480.152. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 8480.151, the district
5 may impose an operation and maintenance tax on taxable property in
6 the district in accordance with Section 49.107, Water Code.

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

9 Sec. 8480.153. CONTRACT TAXES. (a) In accordance with
10 Section 49.108, Water Code, the district may impose a tax other than
11 an operation and maintenance tax and use the revenue derived from
12 the tax to make payments under a contract after the provisions of
13 the contract have been approved by a majority of the district voters
14 voting at an election held for that purpose.

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

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8480.201. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 8480.202. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8480.203. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Fulshear Municipal Utility District No. 2
10 initially includes all the territory contained in the following
11 area:

12 All that certain 55.2 acre tract of land in the Enoch Latham Survey,
13 A-50, Fort Bend County, Texas and being all that certain called
14 5.384 acre tract of land conveyed to DHK Development by deed dated
15 01-02-2013 recorded at Clerk File Number 201300440, and all that
16 certain 39.98 acre tract of land conveyed to DHK Fulshear, LP
17 described in a deed dated 01-20-2013 recorded at Clerk File Number
18 201300442, and all that certain called 10.01 acre tract of land
19 conveyed to DHK Fulshear, LP described in a deed dated 02-20-2013
20 recorded at Clerk File Number 2013000439 in the Fort Bend Count Deed
21 Records and being more particularly described by metes and bounds
22 as follows, all bearings being referenced to the Texas Coordinate
23 System of 1983, all coordinates have surface values and may be
24 converted to grid by applying a combined scale factor of
25 0.99988107.

26 COMMENCING at a found 5/8" iron rod at a bend in the west
27 right-of-way line of Bois D'arc Lane and marking the northeast

1 corner of a called 10.01 acre tract of land conveyed to Roshanak
2 Haghshenas by deed recorded at Clerk File Number 2005007611, Fort
3 Bend County Deed Records, having coordinates of Y=13812242.07 X=:
4 2957906.95, THENCE S 01° 15' 13" E - 422.82', with said west
5 right-of-way line to a found 5/8" iron rod with cap marking the
6 POINT OF BEGINNING of the herein described tract;
7 THENCE S 01° 15' 13" E - 440.00', continuing with said west
8 right-of-way line to a to a found 5/8" iron rod for corner;
9 THENCE S 88° 26' 26" W - 455.80', with the north line of a called 4.99
10 acre tract conveyed to Robert Marion Kipp, et ux by deed recorded at
11 Clerk File Number 2008125853, Fort Bend County Deed Records, to a
12 point for corner;
13 THENCE S 02° 18' 15" E -113.13', with the west line of said 4.99 acre
14 tract to a point for corner;
15 THENCE S 88° 29' 00" W -1765.35', with the north line of a called
16 52.39 acre tract conveyed to Keith H. Williams by deed recorded at
17 Clerk File Number 1999087732, Fort Bend County Deed Records, to a
18 point for corner;
19 THENCE N 01° 58' 02" W - 451.92', with the east line of a called
20 200.7181 acre tract of land conveyed to Fulshear Land Investment
21 Partners, LTD by deed recorded at Clerk File Number 2006137093,
22 Fort Bend County Deed Records, to a point for corner;
23 THENCE with the east line of a called 34.93 acre tract of land
24 conveyed to G.R. Pickard Junior by deed recorded at Volume 499, Page
25 305 Fort Bend County Deed Records for the following 7 (seven)
26 courses and distances:

27 THENCE N 00° 38' 15" W - 772.40' to a found 5/8" iron rod with

1 cap for corner;
2 THENCE S 86° 51' 29" E - 331.86' to a point for corner;
3 THENCE N 04° 09' 24" E - 236.74' to a point for corner;
4 THENCE S 89° 50' 03" E - 36.49' to a point for corner;
5 THENCE N 03° 29' 34" W - 207.90' to a point for corner;
6 THENCE N 87° 14' 46" E - 211.12' to a point for corner;
7 THENCE N 01° 35' 56" W - 182.37' to a found 5/8" iron rod with
8 cap for corner;
9 THENCE S 70° 43' 34" E - 149.27' to a point for corner;
10 THENCE S 65° 41' 10" E - 95.23' to a point for corner;
11 THENCE S 68° 42' 29" E - 300.37' to a point for corner;
12 THENCE with the west line of a called 3.28 acre tract of land
13 conveyed to David Joseph Grace by deed recorded at Clerk File Number
14 2005007611, Fort Bend County Deed Records, for the following 4
15 (four) courses and distances:
16 THENCE S 27° 45' 03" E - 208.59' to a point for corner;
17 THENCE S 00° 08' 40" E - 162.89' to a point for corner;
18 THENCE S 35° 02' 38" W - 135.26' to a point for corner;
19 THENCE S 50° 37' 43" W - 202.68' to a point for corner;
20 THENCE N 88° 08' 22" E - 417.42', with the south line of said 3.28
21 acre tract to a point for corner;
22 THENCE S 01° 50' 25" E - 481.66', with the west line of the
23 aforementioned 10.01 acre Haghshenas tract to a point for corner;
24 THENCE N 88° 28' 58" E - 849.07', with the south line of said 10.01
25 acre tract to the POINT OF BEGINNING, containing 55.2397 acres
26 (2,406,242 square feet) of land more or less.

27 SECTION 3. (a) The legal notice of the intention to

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

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

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

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

18 SECTION 4. (a) If this Act does not receive a two-thirds
19 vote of all the members elected to each house, Subchapter C, Chapter
20 8480, Special District Local Laws Code, as added by Section 1 of
21 this Act, is amended by adding Section 8480.106 to read as follows:

22 Sec. 8480.106. NO EMINENT DOMAIN POWER. The district may
23 not exercise the power of eminent domain.

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

27 SECTION 5. This Act takes effect September 1, 2013.