

By: Hegar
(Zerwas)

S.B. No. 1064

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 208; 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 8456 to read as follows:

CHAPTER 8456. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 208

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8456.001. 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. 208.

Sec. 8456.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8456.003. 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. 8456.004. CONSENT OF MUNICIPALITY REQUIRED. The

1 temporary directors may not hold an election under Section 8456.003
2 until each municipality in whose corporate limits or
3 extraterritorial jurisdiction the district is located has
4 consented by ordinance or resolution to the creation of the
5 district and to the inclusion of land in the district.

6 Sec. 8456.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

9 (1) a municipal utility district as provided by
10 general law and Section 59, Article XVI, Texas 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. 8456.006. INITIAL DISTRICT TERRITORY. (a) The
16 district is initially composed of the territory described by
17 Section 2 of the Act enacting this chapter.

18 (b) The boundaries and field notes contained in Section 2 of
19 the Act enacting 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 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 8456.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five elected directors.

4 (b) Except as provided by Section 8456.052, directors serve
5 staggered four-year terms.

6 Sec. 8456.052. TEMPORARY DIRECTORS. (a) On or after the
7 effective date of the Act enacting 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 commission requesting that
10 the commission appoint as temporary directors the five persons
11 named in the petition. The commission shall appoint as temporary
12 directors the five persons named in the petition.

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

14 (1) the date permanent directors are elected under
15 Section 8456.003; or

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

18 (c) If permanent directors have not been elected under
19 Section 8456.003 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 8456.003; 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. 8456.101. 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. 8456.102. 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. 8456.103. 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. 8456.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
23 road project must meet all applicable construction standards,
24 zoning and subdivision requirements, and regulations of each
25 municipality in whose corporate limits or extraterritorial
26 jurisdiction the road 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. 8456.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
9 OR RESOLUTION. 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 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

15 Sec. 8456.151. ELECTIONS REGARDING TAXES OR BONDS.

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

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

19 (2) contract payments described by Section 8456.153.

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

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

1 Sec. 8456.152. OPERATION AND MAINTENANCE TAX. (a) If
2 authorized at an election held under Section 8456.151, the district
3 may impose an operation and maintenance tax on taxable property in
4 the district in accordance with Section 49.107, Water Code.

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

7 Sec. 8456.153. CONTRACT TAXES. (a) In accordance with
8 Section 49.108, Water Code, the district may impose a tax other than
9 an operation and maintenance tax and use the revenue derived from
10 the tax to make payments under a contract after the provisions of
11 the contract have been approved by a majority of the district voters
12 voting at an election held for that purpose.

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

16 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

17 Sec. 8456.201. AUTHORITY TO ISSUE BONDS AND OTHER
18 OBLIGATIONS. The district may issue bonds or other obligations
19 payable wholly or partly from ad valorem taxes, impact fees,
20 revenue, contract payments, grants, or other district money, or any
21 combination of those sources, to pay for any authorized district
22 purpose.

23 Sec. 8456.202. TAXES FOR BONDS. At the time the district
24 issues bonds payable wholly or partly from ad valorem taxes, the
25 board shall provide for the annual imposition of a continuing
26 direct ad valorem tax, without limit as to rate or amount, while all
27 or part of the bonds are outstanding as required and in the manner

1 provided by Sections 54.601 and 54.602, Water Code.

2 Sec. 8456.203. BONDS FOR ROAD PROJECTS. At the time of
3 issuance, the total principal amount of bonds or other obligations
4 issued or incurred to finance road projects and payable from ad
5 valorem taxes may not exceed one-fourth of the assessed value of the
6 real property in the district.

7 SECTION 2. The Fort Bend County Municipal Utility District
8 No. 208 initially includes all the territory contained in the
9 following area:

10 BEING a 366.89 acre tract of land situated in the John Foster
11 2-1/2 League Grant, Abstract No. 26 of Fort Bend County, Texas and
12 being part of a called 3063.45 acre tract of land described as First
13 Tract in a conveyance to Foster Farms, Inc. recorded in Volume 362,
14 Page 549 of the Fort Bend County Deed Records (F.B.C.D.R.), said
15 366.89 acre tract of land described by metes and bounds as follows:

16 BEGINNING at the most northerly northwest corner of said
17 3063.45 acre tract and the northwest corner of said 3063.45 acre
18 tract and the northeast corner of a called 339.63 acre tract
19 described and recorded in Volume 349, Page 524 of the F.B.C.D.R.;

20 THENCE, S 89° 43' 00" E, a distance of 1,834.00 feet to the
21 most northerly northeast corner of said 3063.45 acre tract and
22 being in the western right-of-way line of Winner-Foster Road (Width
23 Varies);

24 THENCE, along the western and northern right-of-way lines of
25 said Winner-Foster Road the following courses and distances:

26 S 00° 12' 10" W, a distance of 1,613.96 feet to a point
27 for corner;

1 S 00° 23' 10" W, a distance of 2,431.50 feet to a point
2 for corner;
3 S 12° 46' 40" W, a distance of 62.54 feet to a point for
4 corner;
5 S 02° 56' 10" W, a distance of 213.03 feet to a point for
6 corner;
7 S 00° 09' 30" E, a distance of 2,657.90 feet to a point
8 for corner;
9 S 00° 06' 10" W, a distance of 1,724.00 feet to a point
10 for corner;
11 S 38° 17' 20" W, a distance of 113.10 feet to a point for
12 corner;
13 S 62° 30' 20" W, a distance of 129.60 feet to a point for
14 corner;
15 S 83° 57' 20" W, a distance of 212.00 feet to a point for
16 corner;
17 S 89° 31' 20" W, a distance of 2,950.10 feet to a point
18 for corner;
19 S 74° 57' 20" W, a distance of 143.87 feet to a point for
20 corner;
21 THENCE, N 44° 48' 40" W, a distance of 107.15 feet to a point
22 for corner and being in the line common to said 3063.45 acre tract
23 and a called 339.63 acre tract described and recorded in Volume 349,
24 Page 524 of the F.B.C.D.R. ;
25 THENCE, along the lines common to said 3063.45 acre tract and
26 said 339.63 acre tract the following courses and distances:
27 N 48° 44' 00" E, a distance of 247.46 feet to a point for

1 corner;
2 SOUTH, a distance of 54.85 feet to a point for corner;
3 N 48° 44' 00" E, a distance of 37.99 feet to a point for
4 corner;
5 N 72° 44' 20" E, a distance of 277.48 feet to a point for
6 corner;
7 N 63° 43' 20" E, a distance of 114.44 feet to a point for
8 corner;
9 N 54° 03' 20" E, a distance of 145.76 feet to a point for
10 corner;
11 N 43° 36' 20" E, a distance of 706.04 feet to a point for
12 corner;
13 N 42° 01' 20" E, a distance of 285.46 feet to a point for
14 corner;
15 N 34° 49' 20" E, a distance of 345.87 feet to a point for
16 corner;
17 N 30° 43' 15" E, a distance of 402.71 feet to a point for
18 corner;
19 N 00° 06' 00" W, a distance of 80.27 feet to the most
20 southern corner of a called 27.66 acre tract described and
21 recorded under Fort Bend County Clerk's File Number
22 (F.B.C.C.F. No.) 2005020109;
23 THENCE, along the eastern and northern lines of said 27.66
24 acre tract the following courses and distances:
25 N 28° 53' 21" E, a distance of 59.08 feet to a point for
26 corner;
27 N 23° 57' 27" E, a distance of 299.97 feet to a point for

1 corner;
2 N 16° 15' 51" E, a distance of 331.81 feet to a point for
3 corner;
4 N 19° 01' 38" E, a distance of 580.70 feet to a point for
5 corner;
6 N 44° 58' 18" E, a distance of 189.22 feet to a point for
7 corner;
8 N 66° 56' 01" E, a distance of 188.69 feet to a point for
9 corner;
10 N 77° 44' 37" E, a distance of 323.41 feet to a point for
11 corner;
12 N 81° 28' 55" E, a distance of 55.99 feet to a point for
13 corner;
14 N 12° 18' 48" W, a distance of 107.20 feet to a point for
15 corner;
16 N 07° 07' 38" E, a distance of 117.89 feet to a point for
17 corner;
18 N 15° 08' 03" W, a distance of 58.15 feet to a point for
19 corner;
20 N 25° 50' 24" W, a distance of 58.30 feet to a point for
21 corner;
22 N 34° 49' 05" W, a distance of 274.94 feet to a point for
23 corner;
24 N 38° 03' 02" W, a distance of 118.88 feet to a point for
25 corner;
26 N 16° 17' 08" W, a distance of 54.86 feet to a point for
27 corner;

1 N 03° 12' 23" E, a distance of 7.00 feet to a point for
2 corner;

3 N 86° 00' 03" W, a distance of 239.04 feet to an angle
4 point;

5 N 84° 46' 54" W, a distance of 585.18 feet to a point for
6 corner;

7 THENCE, N 00° 06' 00" W, a distance of 4,823.96 feet to the
8 POINT OF BEGINNING and containing 366.89 acres of land.

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

16 (b) The governor, one of the required recipients, has
17 submitted the notice and Act to the Texas Commission on
18 Environmental Quality.

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

23 (d) All requirements of the constitution and laws of this
24 state and the rules and procedures of the legislature with respect
25 to the notice, introduction, and passage of this Act are fulfilled
26 and accomplished.

27 SECTION 4. (a) If this Act does not receive a two-thirds

1 vote of all the members elected to each house, Subchapter C, Chapter
2 8456, Special District Local Laws Code, as added by Section 1 of
3 this Act, is amended by adding Section 8456.106 to read as follows:

4 Sec. 8456.106. NO EMINENT DOMAIN POWER. The district may
5 not exercise the power of eminent domain.

6 (b) This section is not intended to be an expression of a
7 legislative interpretation of the requirements of Subsection (c),
8 Section 17, Article I, Texas Constitution.

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