

By: Hegar
(Zerwas)

S.B. No. 1068

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 212; 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 8445 to read as follows:

CHAPTER 8445. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 212

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8445.001. 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. 212.

Sec. 8445.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8445.003. 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. 8445.004. CONSENT OF MUNICIPALITY REQUIRED. The

1 temporary directors may not hold an election under Section 8445.003
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. 8445.005. 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. 8445.006. 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. 8445.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five elected directors.

4 (b) Except as provided by Section 8445.052, directors serve
5 staggered four-year terms.

6 Sec. 8445.052. 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 8445.003; 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 8445.003 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 8445.003; 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. 8445.101. 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. 8445.102. 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. 8445.103. 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. 8445.104. 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, zoning and
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. 8445.105. 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. 8445.151. 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 8445.153.

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. 8445.152. OPERATION AND MAINTENANCE TAX. (a) If
2 authorized at an election held under Section 8445.151, 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. 8445.153. 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. 8445.201. 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. 8445.202. 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. 8445.203. 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. 212 initially includes all the territory contained in the
9 following area:

10 TRACT 1

11 BEING a 444.86 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 265.11 acre tract described as
15 Forth Tract and all of a called 34.8 acre tract described as Sixth
16 Tract also all of a called 0.72 acre tract described as Seventh
17 Tract in a conveyance to Foster Farms, Inc. recorded in Volume 362,
18 Page 549 of the Fort Bend County Deed Records (F.B.C.D.R.), said
19 444.86 acre tract of land described by metes and bounds as follows:

20 BEGINNING at the northeast corner of said 265.11 acre tract
21 and being in the southern right-of-way line of F. M. 359 (100-foot
22 wide);

23 THENCE, S 00° 39' 06" E, a distance of 4,527.65 feet to the
24 southeast corner of the herein described tract and being in the
25 southern right-of-way line of Beadle Drive (80-feet wide);

26 THENCE, S 89° 58' 40" W, a distance of 5,735.23 feet along
27 said southern right-of-way line to the southwest corner of the

1 herein described tract and being in the west line of said 1410.69
2 acre tract and the east line of a called 3063.45 acre tract
3 described as First Tract in the deed recorded in Volume 362, Page
4 549 of the F.B.C.D.R.;

5 THENCE, NORTH, a distance of 2,145.78 feet along the line
6 common to said 1410.69 acre tract and said 3063.45 acre tract to an
7 angle point;

8 THENCE, N 00° 03' 10" E, a distance of 212.73 feet to the most
9 westerly northwest corner of the herein described tract and being
10 in the centerline of Jones Creek;

11 THENCE, along the centerline of Jones Creek the following
12 courses and distances:

13 S 78° 51' 08" E, a distance of 391.70 feet to a point for
14 corner;

15 N 84° 10' 17" E, a distance of 331.68 feet to a point for
16 corner;

17 N 76° 23' 23" E, a distance of 204.37 feet to a point for
18 corner;

19 N 70° 21' 24" E, a distance of 176.10 feet to a point for
20 corner;

21 N 65° 02' 57" E, a distance of 120.94 feet to a point for
22 corner;

23 N 73° 07' 51" E, a distance of 134.93 feet to a point for
24 corner;

25 N 40° 10' 10" E, a distance of 140.10 feet to a point for
26 corner;

27 N 29° 07' 50" E, a distance of 206.30 feet to a point for

1 corner;
2 N 36° 42' 30" E, a distance of 179.60 feet to a point for
3 corner;
4 N 46° 15' 10" E, a distance of 231.00 feet to a point for
5 corner;
6 N 57° 46' 30" E, a distance of 210.50 feet to a point for
7 corner;
8 N 60° 28' 30" E, a distance of 234.75 feet to a point for
9 corner;
10 N 63° 30' 20" E, a distance of 209.90 feet to a point for
11 corner;
12 N 75° 53' 50" E, a distance of 245.40 feet to a point for
13 corner;
14 N 84° 23' 30" E, a distance of 314.25 feet to a point for
15 corner;
16 S 87° 35' 30" E, a distance of 228.80 feet to a point for
17 corner;
18 S 78° 18' 00" E, a distance of 302.14 feet to a point for
19 corner;
20 S 71° 40' 10" E, a distance of 173.50 feet to a point for
21 corner;
22 S 79° 09' 30" E, a distance of 326.40 feet to a point for
23 corner;
24 N 79° 30' 30" E, a distance of 151.50 feet to a point for
25 corner;
26 N 50° 57' 20" E, a distance of 209.40 feet to a point for
27 corner;

1 N 29° 11' 50" E, a distance of 147.40 feet to a point for
2 corner;

3 N 02° 35' 50" E, a distance of 202.20 feet to a point for
4 corner;

5 N 07° 38' 30" W, a distance of 560.65 feet to a point for
6 corner;

7 N 06° 01' 40" W, a distance of 671.97 feet to the most
8 northerly northwest corner of the herein described tract;

9 THENCE, S 78° 30' 50" E, a distance of 117.07 feet to the
10 southwest corner of said 0.72 acre tract;

11 THENCE, N 11° 29' 10" E, a distance of 23.31 feet to northwest
12 corner of said 0.72 acre tract and being in the southern
13 right-of-way line of said F. M. 359;

14 THENCE, along the southern right-of-way lines of said F. M.
15 359 the following courses and distances:

16 S 69° 55' 20" E, a distance of 1,402.20 feet to the point
17 of curvature of a curve to the right;

18 In an Southeasterly direction along said curve to the
19 right, a distance of 92.41 feet, having a radius of 3,770.00 feet, a
20 central angle of 01° 24' 16" and a chord which bears S 69° 13' 12" E,
21 92.41 feet to the POINT OF BEGINNING and containing 454.86 acres of
22 land, save and except a called 10.00 acre tract described and
23 recorded under F.B.C.C.F. No. 2005020111 leaving a net acreage of
24 444.86 acres of land.

25 TRACT 2

26 BEING a 47.97 acre tract of land situated in the John Foster
27 2-1/2 League Grant, Abstract No. 26 of Fort Bend County, Texas and

1 being part of a called 3063.45 acre tract of land described as First
2 Tract in a conveyance to Foster Farms, Inc. recorded in Volume 362,
3 Page 549 of the Fort Bend County Deed Records (F.B.C.D.R.), said
4 47.97 acre tract of land described by metes and bounds as follows:

5 COMMENCING at the southwest corner of a called 128.109 acre
6 tract described and recorded in Volume 757, Page 585 of the
7 F.B.C.D.R.;

8 THENCE, N 00° 03' 10" E, a distance of 127.03 feet along the
9 west line of said 128.109 acre tract to the southeast corner of the
10 herein described tract and being the POINT OF BEGINNING;

11 THENCE, along the lines common to the herein described tract
12 and a called 39.503 acre tract described and recorded in Volume 27,
13 Page 548 of the F.B.C.D.R. the following courses and distances:

14 N 75° 04' 00" W, a distance of 14.61 feet to a point for
15 corner;

16 N 64° 54' 00" W, a distance of 170.00 feet to a point for
17 corner;

18 N 59° 54' 00" W, a distance of 164.00 feet to a point for
19 corner;

20 N 47° 02' 00" W, a distance of 566.00 feet to a point for
21 corner;

22 N 48° 54' 00" W, a distance of 1000.00 feet to a point
23 for corner;

24 N 62° 04' 00" W, a distance of 242.00 feet to a point for
25 corner;

26 N 37° 29' 00" W, a distance of 447.00 feet to a point for
27 corner;

1 N 10° 20' 00" W, a distance of 123.00 feet to a point for
2 corner;
3 N 22° 41' 00" W, a distance of 145.00 feet to a point for
4 corner;
5 N 04° 35' 00" E, a distance of 166.50 feet to a point for
6 corner;
7 N 29° 03' 00" E, a distance of 161.50 feet to a point for
8 corner;
9 N 59° 03' 00" E, a distance of 150.00 feet to a point for
10 corner;
11 N 86° 43' 00" E, a distance of 300.00 feet to a point for
12 corner;
13 S 44° 11' 00" E, a distance of 600.00 feet to a point for
14 corner;
15 S 35° 19' 00" E, a distance of 225.00 feet to a point for
16 corner;
17 S 56° 05' 00" E, a distance of 400.00 feet to a point for
18 corner;
19 S 69° 31' 00" E, a distance of 300.00 feet to a point for
20 corner;
21 S 88° 24' 00" E, a distance of 300.00 feet to a point for
22 corner;
23 N 77° 12' 00" E, a distance of 63.36 feet to the
24 northeast corner of the herein described tract and being in the west
25 line of said 128.109 acre tract;
26 THENCE, S 00° 03' 10" W, a distance of 1,389.24 feet along the
27 west line of said 128.109 acre tract to the POINT OF BEGINNING and

1 containing 47.97 acres of land.

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

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

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

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

20 SECTION 4. (a) If this Act does not receive a two-thirds
21 vote of all the members elected to each house, Subchapter C, Chapter
22 8445, Special District Local Laws Code, as added by Section 1 of
23 this Act, is amended by adding Section 8445.106 to read as follows:

24 Sec. 8445.106. NO EMINENT DOMAIN POWER. The district may
25 not exercise the power of eminent domain.

26 (b) This section is not intended to be an expression of a
27 legislative interpretation of the requirements of Subsection (c),

1 Section 17, Article I, Texas Constitution.

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