

By: Hegar

S.B. No. 1069

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 213; granting a limited power of eminent domain; providing authority to impose a tax and issue bonds.

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 8459 to read as follows:

CHAPTER 8459. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 213

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8459.001. 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. 213.

Sec. 8459.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8459.003. 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. 8459.004. CONSENT OF MUNICIPALITY REQUIRED. The

1 temporary directors may not hold an election under Section 8459.003
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. 8459.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)

7 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. 8459.006. 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.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8459.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8459.052, directors serve staggered four-year terms.

Sec. 8459.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8459.003; or

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

(c) If permanent directors have not been elected under Section 8459.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8459.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(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. 8459.101. 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. 8459.102. 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. 8459.103. 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. 8459.104. 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, 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. 8459.105. 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. 8459.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
16 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 8459.153.

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. 8459.152. OPERATION AND MAINTENANCE TAX. (a) If
2 authorized at an election held under Section 8459.151, 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. 8459.153. 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. 8459.201. 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. 8459.202. 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. 8459.203. 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. 213 initially includes all the territory contained in the
9 following area:

10 Being 580.500 acres of land located in the Noel F. Roberts
11 1-1/4 League, Abstract 79, the Thomas Westall League, Abstract 92,
12 and the Randolph Foster league, Abstract 28, Fort Bend County,
13 Texas, more particularly being all of that certain called 374.202
14 acre tract conveyed to HUNT ROAD & POOL HILL FARMS, INC., by an
15 instrument of record in File No. 2010122491, Official Public
16 Records, of said Fort Bend County (F.B.C.O.P.R.), and a portion of
17 that certain called 753.14 acre tract conveyed to TWINWOOD (U.S.),
18 INC. by an instrument of record in File No. 2010042222,
19 F.B.C.O.P.R. said 580.500 acres being more particularly described
20 in two parts by metes and bounds as follows (all bearings are
21 assumed);

22 PART ONE

23 BEGINNING at a 1/2-inch iron pipe found marking the northwest
24 corner of said 304.5 acre tract, same being the northwest corner of
25 said Noel F. Roberts 1-1/4 League, the southwest corner of the Isaac
26 Newton Charles Survey, A-17, on the east line of the Randolph Foster
27 League, Abstract 28;

1 Thence, with the north line of said 304.5 acre tract and with
2 the common survey line of said Isaac Newton Charles Survey and the
3 Noel F. Roberts 1-1/4 League, North 88° 47' 03" East (called South
4 89° 40' East), at 476.31 feet pass a found 5/8-inch iron rod with cap
5 stamped "KALKOMEY SURVEYING", at 939.69 feet pass a found 1/2-inch
6 iron pipe, at 1,253.81 feet pass a found 1/2-inch iron pipe, at
7 1,539.66 feet pass a found 1/2-inch iron pipe, at 2,079.81 feet pass
8 a found 1/2-inch iron pipe, at 5,757.10 feet pass a found 5/8-inch
9 iron rod 4.52 feet left, at 5,777.34 feet pass a found 5/8-inch iron
10 rod with cap stamped "TEJAS" 17.68 feet left, at 5,777.54 feet pass
11 a found 1/2-inch iron pipe 2.58 feet right, at 6,791.52 feet pass a
12 found 5/8-inch iron rod 22.35 feet left and continuing a total
13 distance of 6,941.76 feet (called 6,937.1 feet) to a 1-inch square
14 rod found marking the northeast corner of said 304.5 acre tract,
15 same being the northwest corner of said 68.93 acre tract, from which
16 a found 1/2-inch iron pipe bears North 38° 01' 10" West, 0.29 feet;

17 Thence, with the north line of said 68.93 acre tract and
18 continuing with said common survey line, North 87° 57' 59" East
19 (called North 89° 31' 10" East), at 0.44 feet pass a found 5/8-inch
20 iron rod 20.02 feet left, at 1,765.40 feet pass a found 1/2-inch
21 iron pipe and continuing a total distance of 1,795.40 feet (called
22 1,794.8 feet) to a PK Nail set in asphalt marking the northeast
23 corner of said 68.93 acre tract, same being the northeast corner of
24 said Noel F. Roberts 1-1/4 League, and angle point in the southerly
25 line of said Isaac Newton Charles Survey and on the west line of the
26 Joseph San Pierre Labor, A-81;

27 Thence, with the east line of said 68.93 acre tract and with

1 the common survey line of said Noel F. Roberts 1-1/4 League and said
2 Joseph San Pierre Labor, South 03° 38' 00" East (called South 02° 07'
3 20" East), 1,690.01 feet to a PK Nail set in asphalt marking the
4 southeast corner of said 68.93 acre tract;

5 Thence, with the south line of said 68.93 acre tract, South
6 87° 21' 45" West (called South 88° 55' 10" West), at 30.00 feet pass a
7 1-1/2-inch iron pipe and continuing a total distance of 1,741.83
8 feet (called 1,741.5 feet) to a 3/4-inch iron pipe found marking the
9 southwest corner of said 68.93 acre tract, same being the southeast
10 corner of the aforementioned 304.5 acre tract;

11 Thence, with the southerly lines of said 304.5 acre tract,
12 the following nine (9) courses:

13 1) South 87° 34' 14" West (called South 89° 06' West), at
14 40.77 feet pass a found 1/2-inch iron rod, at 1,021.35 feet pass a
15 found 1/2-inch iron rod (bent), at 1,349.43 feet pass a found
16 1/2-inch iron rod (bent) and continuing a total distance of
17 1,552.69 feet (called 1,553.3 feet) to a found 1/2-inch iron pipe
18 for corner;

19 2) South 88° 17' 58" West (called South 89° 53' West), at
20 543.82 feet pass a found 1/2-inch iron rod, at 1,072.28 feet pass a
21 found 1/2-inch iron rod and continuing a total distance of 1,398.93
22 feet (called 1,398.8 feet) to a 1/2-inch iron pipe found for corner;

23 3) South 88° 41' 22" West (called North 89° 59' West), at
24 212.57 feet pass a found 1/2-inch iron rod and continuing a total
25 distance of 509.84 feet (called 510.4 feet) to a 1/2-inch iron pipe
26 found for corner;

27 4) North 88° 28' 03" West (called North 86° 52' West), at

1 414.15 feet pass a found 1/2-inch iron pipe, from which a found
2 3/4-inch iron pipe bears South 79° 28' 45" West, 0.07 feet, at 564.06
3 feet pass a found 1/2-inch iron pipe and continuing a total distance
4 of 917.85 feet (called 918 feet) to a 1/2-inch iron pipe found
5 marking a reentrant corner of said 304.5 acre tract, from which a
6 found 1-inch iron pipe bears North 75° 57' 17" West, 3.57 feet;

7 5) South 01° 32' 01" East, 376.60 feet (called South 0° 34'
8 East, 376.4 feet) to a 2 1/2-inch iron pipe filled with concrete
9 found for corner;

10 6) South 82° 56' 56" West, 2,153.14 feet (called South 84° 30'
11 West, 2,153 feet) to a 1-inch iron pipe found marking the most
12 southerly southwest corner of said 304.5 acre tract;

13 7) North 38° 07' 55" West, 184.80 feet (called North 38° 05'
14 West, 182.6 feet) to a PK Nail set in asphalt for corner;

15 8) North 50° 57' 38" West, 100.00 feet (called North 49° 20'
16 West, 100 feet) to a PK Nail set in asphalt for corner;

17 9) North 61° 17' 38" West (called North 59° 40' West, 400
18 feet), 400.00 feet to a to a chiseled "X" in concrete foundation of
19 a masonry column set marking the most westerly southwest corner of
20 said 304.5 acre tract, same being on the west line of the
21 aforementioned Noel F. Roberts 1-1/4 League;

22 Thence, with the west line of said 304.5 acre tract and the
23 west line of said Noel F. Roberts 1-1/4 League, North 01° 40' 38"
24 West (called North 0° 03' West), at 1,638.97 feet pass a found
25 1/2-inch iron pipe (bent) and continuing a total distance of
26 1,891.30 feet (called 1,891.3 feet) to the POINT OF BEGINNING and
27 containing 374.202 acres of land.

1 PART TWO

2 BEGINNING at the northeast corner of the aforementioned
3 753.14 acre tract being on the west right-of-way line of F.M.
4 Highway 1489 (100-foot wide);

5 Thence, South 08° 29' 10" West, along the common line of said
6 753.14 acres and F.M. Highway 1489, 1309.56 feet to a point for
7 corner, the beginning of a curve;

8 Thence, continuing along said common line, along the arc of a
9 tangent curve to the left having a radius of 2915.00 feet, a central
10 angle of 13° 18' 58", an arc length of 677.47 feet, and a chord which
11 bears South 01° 49' 41" West, 675.95 feet to a point for corner;

12 Thence, South 04° 49' 47" East, continuing along said common
13 line, 366.55 feet to a point for corner;

14 Thence, North 58° 01' 50" West, 344.69 feet to a point for
15 corner;

16 Thence, North 67° 52' 22" West, 486.32 feet to a point for
17 corner;

18 Thence, North 77° 58' 51" West, 484.53 feet to a point for
19 corner;

20 Thence, North 86° 41' 50" West, 354.17 feet to a point for
21 corner;

22 Thence, North 89° 52' 54" West, 136.95 feet to a point for
23 corner;

24 Thence, South 81° 42' 43" West, 69.88 feet to a point for
25 corner;

26 Thence, North 89° 37' 02" West, 1424.54 feet to a point for
27 corner;

1 Thence, South 88° 57' 19" West, 182.21 feet to a point for
2 corner;

3 Thence, South 82° 02' 27" West, 482.09 feet to a point for
4 corner;

5 Thence, South 72° 03' 46" West, 486.22 feet to a point for
6 corner;

7 Thence, South 61° 57' 08" West, 233.22 feet to a point for
8 corner on the east bank of the Brazos River;

9 Thence, along the east bank of the Brazos River, the
10 following fourteen (14) meanders:

11 1) North 17° 44' 47" West, 107.33 feet to a point for corner;

12 2) North 20° 07' 24" West, 157.79 feet to a point for corner;

13 3) North 15° 43' 07" West, 193.69 feet to a point for corner;

14 4) North 19° 22' 20" West, 236.23 feet to a point for corner;

15 5) North 18° 32' 59" West, 174.71 feet to a point for corner;

16 6) North 15° 37' 20" West, 138.21 feet to a point for

17 7) North 04° 12' 38" East, 148.92 feet to a point for corner;

18 8) North 13° 04' 30" West, 128.01 feet to a point for corner;

19 9) North 06° 53' 54" West, 148.38 feet to a point for corner;

20 10) North 16° 59' 58" West, 204.57 feet to a point for
21 corner;

22 11) North 09° 12' 42" West, 115.68 feet to a point for
23 corner;

24 12) North 23° 22' 04" West, 125.07 feet to a point for
25 corner;

26 13) North 11° 23' 30" West, 91.41 feet to a point for corner;

27 14) Thence, North 09° 52' 05" West, 91.87 feet to a point for

1 corner;

2 Thence, North 87° 54' 31" East, leaving said east bank of the
3 Brazos River 810.55 feet to a point for corner;

4 Thence, North 87° 39' 52" East, along the north line of the
5 aforementioned 753.14 acre tract, 1000.53 feet to a point for
6 corner;

7 Thence, North 88° 12' 04" East, continuing along said north
8 line, 999.05 feet to a point for corner;

9 Thence, North 87° 58' 49" East, continuing along said north
10 line, 1000.18 feet to a point for corner;

11 Thence, North 87° 38' 33" East, continuing along said north
12 line, 1414.59 feet to the POINT OF BEGINNING and containing 206.298
13 acres of land.

14 Said Part One and Part Two containing a total of 580.500 acres
15 of land.

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

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

26 (c) The Texas Commission on Environmental Quality has filed
27 its recommendations relating to this Act with the governor, the

1 lieutenant governor, and the speaker of the house of
2 representatives within the required time.

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

7 SECTION 4. (a) If this Act does not receive a two-thirds
8 vote of all the members elected to each house, Subchapter C, Chapter
9 8459, Special District Local Laws Code, as added by Section 1 of
10 this Act, is amended by adding Section 8459.106 to read as follows:

11 Sec. 8459.106. NO EMINENT DOMAIN POWER. The district may
12 not exercise the power of eminent domain.

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

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