

By: Zerwas

H.B. No. 4320

Substitute the following for H.B. No. 4320:

By: Schubert

C.S.H.B. No. 4320

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation of the Fort Bend County Municipal  
3 Management District No. 2; providing authority to issue bonds;  
4 providing authority to impose assessments, fees, or taxes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle C, Title 4, Special District Local Laws  
7 Code, is amended by adding Chapter 3957 to read as follows:

8 CHAPTER 3957. FORT BEND COUNTY MUNICIPAL MANAGEMENT DISTRICT NO. 2

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 3957.001. DEFINITIONS. In this chapter:

11 (1) "Board" means the district's board of directors.

12 (2) "County" means Fort Bend County.

13 (3) "Director" means a board member.

14 (4) "District" means the Fort Bend County Municipal  
15 Management District No. 2.

16 Sec. 3957.002. NATURE OF DISTRICT. The district is a  
17 special district created under Section 59, Article XVI, Texas  
18 Constitution.

19 Sec. 3957.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The  
20 creation of the district is essential to accomplish the purposes of  
21 Sections 52 and 52-a, Article III, and Section 59, Article XVI,  
22 Texas Constitution, and other public purposes stated in this  
23 chapter. By creating the district and in authorizing the county and  
24 other political subdivisions to contract with the district, the

1 legislature has established a program to accomplish the public  
2 purposes set out in Section 52-a, Article III, Texas Constitution.

3 (b) The creation of the district is necessary to promote,  
4 develop, encourage, and maintain employment, commerce,  
5 transportation, housing, tourism, recreation, the arts,  
6 entertainment, economic development, safety, and the public  
7 welfare in the district.

8 (c) This chapter and the creation of the district may not be  
9 interpreted to relieve the county from providing the level of  
10 services provided as of the effective date of the Act enacting this  
11 chapter to the area in the district. The district is created to  
12 supplement and not to supplant county services provided in the  
13 district.

14 Sec. 3957.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)  
15 The district is created to serve a public use and benefit.

16 (b) All land and other property included in the district  
17 will benefit from the improvements and services to be provided by  
18 the district under powers conferred by Sections 52 and 52-a,  
19 Article III, and Section 59, Article XVI, Texas Constitution, and  
20 other powers granted under this chapter.

21 (c) The creation of the district is in the public interest  
22 and is essential to further the public purposes of:

23 (1) developing and diversifying the economy of the  
24 state;

25 (2) eliminating unemployment and underemployment; and

26 (3) developing or expanding transportation and  
27 commerce.

1       (d) The district will:

2           (1) promote the health, safety, and general welfare of  
3 residents, employers, potential employees, employees, visitors,  
4 and consumers in the district, and of the public;

5           (2) provide needed funding for the district to  
6 preserve, maintain, and enhance the economic health and vitality of  
7 the district territory as a community and business center;

8           (3) promote the health, safety, welfare, and enjoyment  
9 of the public by providing pedestrian ways and by landscaping and  
10 developing certain areas in the district, which are necessary for  
11 the restoration, preservation, and enhancement of scenic beauty;  
12 and

13           (4) provide for water, wastewater, drainage, road, and  
14 recreational facilities for the district.

15       (e) Pedestrian ways along or across a street, whether at  
16 grade or above or below the surface, and street lighting, street  
17 landscaping, parking, and street art objects are parts of and  
18 necessary components of a street and are considered to be a street  
19 or road improvement.

20       (f) The district will not act as the agent or  
21 instrumentality of any private interest even though the district  
22 will benefit many private interests as well as the public.

23       Sec. 3957.005. INITIAL DISTRICT TERRITORY. (a) The  
24 district is initially composed of the territory described by  
25 Section 2 of the Act enacting this chapter.

26       (b) The boundaries and field notes contained in Section 2 of  
27 the Act enacting this chapter form a closure. A mistake in the

1 field notes or in copying the field notes in the legislative process  
2 does not affect the district's:

3 (1) organization, existence, or validity;

4 (2) right to issue any type of bonds for the purposes  
5 for which the district is created or to pay the principal of and  
6 interest on bonds;

7 (3) right to impose or collect an assessment or tax; or

8 (4) legality or operation.

9 Sec. 3957.006. APPLICABILITY OF MUNICIPAL MANAGEMENT  
10 DISTRICTS LAW. Except as otherwise provided by this chapter,  
11 Chapter 375, Local Government Code, applies to the district.

12 Sec. 3957.007. CONSTRUCTION OF CHAPTER. This chapter shall  
13 be liberally construed in conformity with the findings and purposes  
14 stated in this chapter.

15 SUBCHAPTER B. BOARD OF DIRECTORS

16 Sec. 3957.051. GOVERNING BODY; TERMS. (a) The district is  
17 governed by a board of five directors elected in the manner provided  
18 by Sections 49.102 and 49.103, Water Code.

19 (b) Except as provided by Section 3957.054, directors serve  
20 staggered four-year terms.

21 Sec. 3957.052. QUORUM. For purposes of determining the  
22 requirements for a quorum of the board, the following are not  
23 counted:

24 (1) a board position vacant for any reason, including  
25 death, resignation, or disqualification; or

26 (2) a director who is abstaining from participation in  
27 a vote because of a conflict of interest.

1       Sec. 3957.053. COMPENSATION. A director is entitled to  
2 receive fees of office and reimbursement for actual expenses as  
3 provided by Section 49.060, Water Code. Sections 375.069 and  
4 375.070, Local Government Code, do not apply to the board.

5       Sec. 3957.054. TEMPORARY VOTING DIRECTORS. (a) On or after  
6 the effective date of the Act enacting this chapter, the owner or  
7 owners of a majority of the assessed value of the real property in  
8 the district according to the most recent certified tax appraisal  
9 roll for the county may submit a petition to the Texas Commission on  
10 Environmental Quality requesting that the commission appoint as  
11 temporary voting directors the five persons named in the petition.  
12 The commission shall appoint the five persons named in the petition  
13 as temporary directors by position.

14       (b) The temporary directors shall hold an election to elect  
15 five permanent directors as provided by Section 49.102, Water Code.

16       (c) Temporary directors serve until the earlier of:

17               (1) the date permanent directors are elected under  
18 Subsection (b); or

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

21       (d) If permanent directors have not been elected under  
22 Subsection (b) and the terms of the temporary directors have  
23 expired, successor temporary directors shall be appointed or  
24 reappointed as provided by Subsection (e) to serve terms that  
25 expire on the earlier of:

26               (1) the date permanent directors are elected under  
27 Subsection (b); or

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

3           (e) If Subsection (d) applies, the owner or owners of a  
4 majority of the assessed value of the real property in the district  
5 may submit a petition to the Texas Commission on Environmental  
6 Quality requesting that the commission appoint as successor  
7 temporary directors the five persons named in the petition. The  
8 commission shall appoint as successor temporary directors the five  
9 persons named in the petition.

10           (f) Section 3957.051 does not apply to this section.

11                           SUBCHAPTER C. POWERS AND DUTIES

12           Sec. 3957.101. GENERAL POWERS AND DUTIES. The district has  
13 the powers and duties necessary to accomplish the purposes for  
14 which the district is created.

15           Sec. 3957.102. IMPROVEMENT PROJECTS AND SERVICES. The  
16 district may provide, design, construct, acquire, improve,  
17 relocate, operate, maintain, or finance an improvement project or  
18 service using any money available to the district, or contract with  
19 a governmental or private entity to provide, design, construct,  
20 acquire, improve, relocate, operate, maintain, or finance an  
21 improvement project or service authorized under this chapter or  
22 Chapter 375, Local Government Code.

23           Sec. 3957.103. AGREEMENTS; GRANTS. (a) As provided by  
24 Chapter 375, Local Government Code, the district may make an  
25 agreement with or accept a gift, grant, or loan from any person.

26           (b) The implementation of a project is a governmental  
27 function or service for the purposes of Chapter 791, Government

1 Code.

2 Sec. 3957.104. LAW ENFORCEMENT SERVICES. To protect the  
3 public interest, the district may contract with a qualified party,  
4 including the county, to provide law enforcement services in the  
5 district for a fee.

6 Sec. 3957.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
7 district may join and pay dues to a charitable or nonprofit  
8 organization that performs a service or provides an activity  
9 consistent with the furtherance of a district purpose.

10 Sec. 3957.106. ECONOMIC DEVELOPMENT PROGRAMS. (a) The  
11 district may engage in activities that accomplish the economic  
12 development purposes of the district.

13 (b) The district may establish and provide for the  
14 administration of one or more programs to promote state or local  
15 economic development and to stimulate business and commercial  
16 activity in the district, including programs to:

17 (1) make loans and grants of public money; and

18 (2) provide district personnel and services.

19 (c) The district may create economic development programs  
20 and exercise the economic development powers provided to  
21 municipalities by:

22 (1) Chapter 380, Local Government Code; and

23 (2) Subchapter A, Chapter 1509, Government Code.

24 Sec. 3957.107. PARKING FACILITIES. (a) The district may  
25 acquire, lease as lessor or lessee, construct, develop, own,  
26 operate, and maintain parking facilities or a system of parking  
27 facilities, including lots, garages, parking terminals, or other

1 structures or accommodations for parking motor vehicles off the  
2 streets and related appurtenances.

3 (b) The district's parking facilities serve the public  
4 purposes of the district and are owned, used, and held for a public  
5 purpose even if leased or operated by a private entity for a term of  
6 years.

7 (c) The district's parking facilities are parts of and  
8 necessary components of a street and are considered to be a street  
9 or road improvement.

10 (d) The development and operation of the district's parking  
11 facilities may be considered an economic development program.

12 Sec. 3957.108. ANNEXATION OF LAND. The district may annex  
13 land as provided by Subchapter J, Chapter 49, Water Code.

14 Sec. 3957.109. NO EMINENT DOMAIN POWER. The district may  
15 not exercise the power of eminent domain.

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

17 Sec. 3957.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
18 board by resolution shall establish the number of directors'  
19 signatures and the procedure required for a disbursement or  
20 transfer of district money.

21 Sec. 3957.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.  
22 The district may acquire, construct, finance, operate, or maintain  
23 any improvement or service authorized under this chapter or Chapter  
24 375, Local Government Code, using any money available to the  
25 district.

26 Sec. 3957.153. PETITION REQUIRED FOR FINANCING SERVICES AND  
27 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a



1 service or improvement project with assessments under this chapter  
2 unless a written petition requesting that service or improvement  
3 has been filed with the board.

4 (b) A petition filed under Subsection (a) must be signed by  
5 the owners of a majority of the assessed value of real property in  
6 the district subject to assessment according to the most recent  
7 certified tax appraisal roll for the county.

8 Sec. 3957.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)  
9 The board by resolution may impose and collect an assessment for any  
10 purpose authorized by this chapter in all or any part of the  
11 district.

12 (b) An assessment, a reassessment, or an assessment  
13 resulting from an addition to or correction of the assessment roll  
14 by the district, penalties and interest on an assessment or  
15 reassessment, an expense of collection, and reasonable attorney's  
16 fees incurred by the district:

17 (1) are a first and prior lien against the property  
18 assessed;

19 (2) are superior to any other lien or claim other than  
20 a lien or claim for county, school district, or municipal ad valorem  
21 taxes; and

22 (3) are the personal liability of and a charge against  
23 the owners of the property even if the owners are not named in the  
24 assessment proceedings.

25 (c) The lien is effective from the date of the board's  
26 resolution imposing the assessment until the date the assessment is  
27 paid. The board may enforce the lien in the same manner that the

1 board may enforce an ad valorem tax lien against real property.

2 (d) The board may make a correction to or deletion from the  
3 assessment roll that does not increase the amount of assessment of  
4 any parcel of land without providing notice and holding a hearing in  
5 the manner required for additional assessments.

6 Sec. 3957.155. TAX AND ASSESSMENT ABATEMENTS. The district  
7 may designate reinvestment zones and may grant abatements of a tax  
8 or assessment on property in the zones.

9 SUBCHAPTER E. TAXES AND BONDS

10 Sec. 3957.201. ELECTIONS REGARDING TAXES AND BONDS. (a)  
11 The district may issue, without an election, bonds, notes, and  
12 other obligations secured by:

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

14 (2) contract payments described by Section 3957.203.

15 (b) The district must hold an election in the manner  
16 provided by Subchapter L, Chapter 375, Local Government Code, to  
17 obtain voter approval before the district may impose an ad valorem  
18 tax or issue bonds payable from ad valorem taxes.

19 (c) Section 375.243, Local Government Code, does not apply  
20 to the district.

21 (d) All or any part of any facilities or improvements that  
22 may be acquired by a district by the issuance of its bonds may be  
23 submitted as a single proposition or as several propositions to be  
24 voted on at the election.

25 Sec. 3957.202. OPERATION AND MAINTENANCE TAX. (a) If  
26 authorized by a majority of the district voters voting at an  
27 election held in accordance with Section 3957.201, the district may

1 impose an operation and maintenance tax on taxable property in the  
2 district in accordance with Section 49.107, Water Code, for any  
3 district purpose, including to:

4 (1) maintain and operate the district;

5 (2) construct or acquire improvements; or

6 (3) provide a service.

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

9 (c) Section 49.107(h), Water Code, does not apply to the  
10 district.

11 Sec. 3957.203. CONTRACT TAXES. (a) In accordance with  
12 Section 49.108, Water Code, the district may impose a tax other than  
13 an operation and maintenance tax and use the revenue derived from  
14 the tax to make payments under a contract after the provisions of  
15 the contract have been approved by a majority of the district voters  
16 voting at an election held for that purpose.

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

20 Sec. 3957.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS  
21 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms  
22 determined by the board. Section 375.205, Local Government Code,  
23 does not apply to a loan, line of credit, or other borrowing from a  
24 bank or financial institution secured by revenue other than ad  
25 valorem taxes.

26 (b) The district may issue bonds, notes, or other  
27 obligations payable wholly or partly from ad valorem taxes,

1 assessments, impact fees, revenue, contract payments, grants, or  
2 other district money, or any combination of those sources of money,  
3 to pay for any authorized district purpose.

4 (c) The limitation on the outstanding principal amount of  
5 bonds, notes, and other obligations provided by Section 49.4645,  
6 Water Code, does not apply to the district.

7 Sec. 3957.205. TAXES FOR BONDS. At the time the district  
8 issues bonds payable wholly or partly from ad valorem taxes, the  
9 board shall provide for the annual imposition of a continuing  
10 direct annual ad valorem tax, without limit as to rate or amount,  
11 for each year that all or part of the bonds are outstanding as  
12 required and in the manner provided by Sections 54.601 and 54.602,  
13 Water Code.

14 SUBCHAPTER F. DEFINED AREAS

15 Sec. 3957.251. AUTHORITY TO ESTABLISH DEFINED AREAS OR  
16 DESIGNATED PROPERTY. The district may define areas or designate  
17 certain property of the district to pay for improvements,  
18 facilities, or services that primarily benefit that area or  
19 property and do not generally and directly benefit the district as a  
20 whole.

21 Sec. 3957.252. PROCEDURE FOR ELECTION. (a) Before the  
22 district may impose an ad valorem tax or issue bonds payable from ad  
23 valorem taxes of the defined area or designated property, the board  
24 shall hold an election in the defined area or in the designated  
25 property only.

26 (b) The board may submit the proposition to the voters on  
27 the same ballot to be used in another election.

1       Sec. 3957.253. DECLARING RESULT AND ISSUING ORDER. (a) If  
2 a majority of the voters voting at the election approve the  
3 proposition or propositions, the board shall declare the results  
4 and, by order, shall establish the defined area and describe it by  
5 metes and bounds or designate the specific property.

6       (b) A court may not review the board's order except on the  
7 ground of fraud, palpable error, or arbitrary and confiscatory  
8 abuse of discretion.

9       Sec. 3957.254. TAXES FOR SERVICES, IMPROVEMENTS, AND  
10 FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter  
11 approval and adoption of the order described by Section 3957.253,  
12 the district may apply separately, differently, equitably, and  
13 specifically its taxing power and lien authority to the defined  
14 area or designated property to provide money to construct,  
15 administer, maintain, and operate services, improvements, and  
16 facilities that primarily benefit the defined area or designated  
17 property.

18       Sec. 3957.255. ISSUANCE OF BONDS FOR DEFINED AREA OR  
19 DESIGNATED PROPERTY. After the order under Section 3957.253 is  
20 adopted, the district may issue bonds to provide for any land,  
21 improvements, facilities, plants, equipment, and appliances for  
22 the defined area or designated property.

23       Sec. 3957.256. ADDITION OR EXCLUSION OF LAND IN DEFINED  
24 AREA. The district may add or exclude land from the defined areas  
25 in the same manner the district may add or exclude land from the  
26 district.

1           SUBCHAPTER G. DISSOLUTION AND MUNICIPAL ANNEXATION

2           Sec. 3957.301. DISSOLUTION; MUNICIPAL ANNEXATION. (a) The  
3 district is a water or sewer district for the purposes of Section  
4 43.071, Local Government Code.

5           (b) Section 43.075, Local Government Code, applies to the  
6 district.

7           (c) Section 375.264, Local Government Code, does not apply  
8 to the dissolution of the district by a municipality.

9           SECTION 2. The Fort Bend County Municipal Management  
10 District No. 2 initially includes all the territory contained in  
11 the following area:

12           BEING a 100.0 acre tract of land situated in the Knight and  
13 White Survey, Abstract No. 46 of Fort Bend County, Texas and being a  
14 portion of a called 901.854 acre tract (Tract I) of land as  
15 described in an instrument to WBH Ranches, LP recorded under Fort  
16 Bend County Clerk's File Number (F.B.C.C.F. No.) 2015004534, said  
17 100.0 acre tract of land described by metes and bounds as follows:

18           COMMENCING at an interior corner of said 901.854 acre tract,  
19 same being the northwest corner of a called 294.296 acre tract as  
20 described in an instrument to Old South Plantation, Inc. recorded  
21 under F.B.C.C.F. No. 9722234, and the northwest corner of a called  
22 19.991 acre Drainage Easement tract as described in an instrument  
23 to the State of Texas for highway drainage purposes recorded under  
24 Volume 2247, Page 916 of the Fort Bend County Deed Records;

25           THENCE, S 02°29'39" E, along and with the east line of said  
26 901.854 acre tract, same being the west line of said 294.296 acre  
27 tract and said 19.991 acre drainage easement tract, a distance of

1 1,127.28 feet to the northeast corner and POINT OF BEGINNING of the  
2 herein described tract;

3       THENCE, S 02°29'39" E, continuing along and with said east  
4 line, a distance of 2,087.00 feet to the southeast corner of the  
5 herein described tract;

6       THENCE, over and across said 901.854 acre tract, the  
7 following courses and distances:

8             S 87°30'21" W, a distance of 2,087.21 feet to the  
9 southwest corner of the herein described tract;

10            N 02°29'39" W, a distance of 2,087.00 feet to the  
11 northwest corner of the herein described tract;

12            N 87°30'21" E, a distance of 2,087.21 feet to the POINT  
13 OF BEGINNING and containing 100.0 acres of land.

14       Bearing orientation is based on the Texas Coordinate System,  
15 South Central Zone 4204, NAD-83 and is referenced to a called  
16 901.854 acre tract as cited herein.

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

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

27       (c) The Texas Commission on Environmental Quality has filed

1 its recommendations relating to this Act with the governor,  
2 lieutenant governor, and speaker of the house of representatives  
3 within the required time.

4 (d) The general law relating to consent by political  
5 subdivisions to the creation of districts with conservation,  
6 reclamation, and road powers and the inclusion of land in those  
7 districts has been complied with.

8 (e) All requirements of the constitution and laws of this  
9 state and the rules and procedures of the legislature with respect  
10 to the notice, introduction, and passage of this Act have been  
11 fulfilled and accomplished.

12 SECTION 4. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2017.