

By: Zerwas

H.B. No. 4320

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Management District No. 2; 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 C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3957 to read as follows:

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

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3957.001. DEFINITIONS. In this chapter:

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

(2) "County" means Fort Bend County.

(3) "Director" means a board member.

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

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

Sec. 3957.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the county and 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 voting directors who serve staggered
18 terms of four years, with two or three directors' terms expiring
19 June 1 of each odd-numbered year.

20 (b) The board by resolution may change the number of voting
21 directors on the board if the board determines that the change is in
22 the best interest of the district. The board may not consist of
23 fewer than five or more than nine voting directors.

24 Sec. 3957.052. APPOINTMENT OF VOTING DIRECTORS. The Texas
25 Commission on Environmental Quality shall appoint voting directors
26 from persons recommended by the board.

27 Sec. 3957.053. NONVOTING DIRECTORS. The board may appoint

1 nonvoting directors to serve at the pleasure of the voting
2 directors.

3 Sec. 3957.054. QUORUM. For purposes of determining the
4 requirements for a quorum of the board, the following are not
5 counted:

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

8 (2) a director who is abstaining from participation in
9 a vote because of a conflict of interest; or

10 (3) a nonvoting director.

11 Sec. 3957.055. COMPENSATION. A director is entitled to
12 receive fees of office and reimbursement for actual expenses as
13 provided by Section 49.060, Water Code. Sections 375.069 and
14 375.070, Local Government Code, do not apply to the board.

15 Sec. 3957.056. INITIAL VOTING DIRECTORS. (a) On or after
16 the effective date of the Act enacting this chapter, the owner or
17 owners of a majority of the assessed value of the real property in
18 the district according to the most recent certified tax appraisal
19 roll for the county may submit a petition to the Texas Commission on
20 Environmental Quality requesting that the commission appoint as
21 initial voting directors the five persons named in the petition.
22 The commission shall appoint the five persons named in the petition
23 as initial directors by position.

24 (b) Of the initial directors, the terms of directors
25 appointed for positions one through three expire June 1, 2019, and
26 the terms of directors appointed for positions four and five expire
27 June 1, 2021.

1 (c) Section 3957.052 does not apply to this section.

2 (d) This section expires September 1, 2021.

3 SUBCHAPTER C. POWERS AND DUTIES

4 Sec. 3957.101. GENERAL POWERS AND DUTIES. The district has
5 the powers and duties necessary to accomplish the purposes for
6 which the district is created.

7 Sec. 3957.102. IMPROVEMENT PROJECTS AND SERVICES. The
8 district may provide, design, construct, acquire, improve,
9 relocate, operate, maintain, or finance an improvement project or
10 service using any money available to the district, or contract with
11 a governmental or private entity to provide, design, construct,
12 acquire, improve, relocate, operate, maintain, or finance an
13 improvement project or service authorized under this chapter or
14 Chapter 375, Local Government Code.

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

18 (b) The implementation of a project is a governmental
19 function or service for the purposes of Chapter 791, Government
20 Code.

21 Sec. 3957.104. LAW ENFORCEMENT SERVICES. To protect the
22 public interest, the district may contract with a qualified party,
23 including the county, to provide law enforcement services in the
24 district for a fee.

25 Sec. 3957.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
26 district may join and pay dues to a charitable or nonprofit
27 organization that performs a service or provides an activity

1 consistent with the furtherance of a district purpose.

2 Sec. 3957.106. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
3 district may engage in activities that accomplish the economic
4 development purposes of the district.

5 (b) The district may establish and provide for the
6 administration of one or more programs to promote state or local
7 economic development and to stimulate business and commercial
8 activity in the district, including programs to:

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

10 (2) provide district personnel and services.

11 (c) The district may create economic development programs
12 and exercise the economic development powers provided to
13 municipalities by:

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

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

16 Sec. 3957.107. PARKING FACILITIES. (a) The district may
17 acquire, lease as lessor or lessee, construct, develop, own,
18 operate, and maintain parking facilities or a system of parking
19 facilities, including lots, garages, parking terminals, or other
20 structures or accommodations for parking motor vehicles off the
21 streets and related appurtenances.

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

26 (c) The district's parking facilities are parts of and
27 necessary components of a street and are considered to be a street

1 or road improvement.

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

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

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

8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

9 Sec. 3957.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
10 board by resolution shall establish the number of directors'
11 signatures and the procedure required for a disbursement or
12 transfer of district money.

13 Sec. 3957.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.
14 The district may acquire, construct, finance, operate, or maintain
15 any improvement or service authorized under this chapter or Chapter
16 375, Local Government Code, using any money available to the
17 district.

18 Sec. 3957.153. PETITION REQUIRED FOR FINANCING SERVICES AND
19 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
20 service or improvement project with assessments under this chapter
21 unless a written petition requesting that service or improvement
22 has been filed with the board.

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

27 Sec. 3957.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)

1 The board by resolution may impose and collect an assessment for any
2 purpose authorized by this chapter in all or any part of the
3 district.

4 (b) An assessment, a reassessment, or an assessment
5 resulting from an addition to or correction of the assessment roll
6 by the district, penalties and interest on an assessment or
7 reassessment, an expense of collection, and reasonable attorney's
8 fees incurred by the district:

9 (1) are a first and prior lien against the property
10 assessed;

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

14 (3) are the personal liability of and a charge against
15 the owners of the property even if the owners are not named in the
16 assessment proceedings.

17 (c) The lien is effective from the date of the board's
18 resolution imposing the assessment until the date the assessment is
19 paid. The board may enforce the lien in the same manner that the
20 board may enforce an ad valorem tax lien against real property.

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

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

SUBCHAPTER E. TAXES AND BONDS

Sec. 3957.201. ELECTIONS REGARDING TAXES AND BONDS. (a)

The district may issue, without an election, bonds, notes, and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 3957.203.

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

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

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

Sec. 3957.202. OPERATION AND MAINTENANCE TAX. (a) If

authorized by a majority of the district voters voting at an election held in accordance with Section 3957.201, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code, for any district purpose, including to:

(1) maintain and operate the district;

(2) construct or acquire improvements; or

(3) provide a service.

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

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

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

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

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

18 (b) The district may issue bonds, notes, or other
19 obligations payable wholly or partly from ad valorem taxes,
20 assessments, impact fees, revenue, contract payments, grants, or
21 other district money, or any combination of those sources of money,
22 to pay for any authorized district purpose.

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

26 Sec. 3957.205. TAXES FOR BONDS. At the time the district
27 issues bonds payable wholly or partly from ad valorem taxes, the

1 board shall provide for the annual imposition of a continuing
2 direct annual ad valorem tax, without limit as to rate or amount,
3 for each year that all or part of the bonds are outstanding as
4 required and in the manner provided by Sections 54.601 and 54.602,
5 Water Code.

6 SUBCHAPTER F. DEFINED AREAS

7 Sec. 3957.251. AUTHORITY TO ESTABLISH DEFINED AREAS OR
8 DESIGNATED PROPERTY. The district may define areas or designate
9 certain property of the district to pay for improvements,
10 facilities, or services that primarily benefit that area or
11 property and do not generally and directly benefit the district as a
12 whole.

13 Sec. 3957.252. PROCEDURE FOR ELECTION. (a) Before the
14 district may impose an ad valorem tax or issue bonds payable from ad
15 valorem taxes of the defined area or designated property, the board
16 shall hold an election in the defined area or in the designated
17 property only.

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

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

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

1 Sec. 3957.254. TAXES FOR SERVICES, IMPROVEMENTS, AND
2 FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter
3 approval and adoption of the order described by Section 3957.253,
4 the district may apply separately, differently, equitably, and
5 specifically its taxing power and lien authority to the defined
6 area or designated property to provide money to construct,
7 administer, maintain, and operate services, improvements, and
8 facilities that primarily benefit the defined area or designated
9 property.

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

15 Sec. 3957.256. ADDITION OR EXCLUSION OF LAND IN DEFINED
16 AREA. The district may add or exclude land from the defined areas
17 in the same manner the district may add or exclude land from the
18 district.

19 SUBCHAPTER G. DISSOLUTION AND MUNICIPAL ANNEXATION

20 Sec. 3957.301. DISSOLUTION; MUNICIPAL ANNEXATION. (a) The
21 district is a water or sewer district for the purposes of Section
22 43.071, Local Government Code.

23 (b) Section 43.075, Local Government Code, applies to the
24 district.

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

27 SECTION 2. The Fort Bend County Municipal Management

1 District No. 2 initially includes all the territory contained in
2 the following area:

3 BEING a 100.0 acre tract of land situated in the Knight and
4 White Survey, Abstract No. 46 of Fort Bend County, Texas and being a
5 portion of a called 901.854 acre tract (Tract I) of land as
6 described in an instrument to WBH Ranches, LP recorded under Fort
7 Bend County Clerk's File Number (F.B.C.C.F. No.) 2015004534, said
8 100.0 acre tract of land described by metes and bounds as follows:

9 COMMENCING at an interior corner of said 901.854 acre tract,
10 same being the northwest corner of a called 294.296 acre tract as
11 described in an instrument to Old South Plantation, Inc. recorded
12 under F.B.C.C.F. No. 9722234, and the northwest corner of a called
13 19.991 acre Drainage Easement tract as described in an instrument
14 to the State of Texas for highway drainage purposes recorded under
15 Volume 2247, Page 916 of the Fort Bend County Deed Records;

16 THENCE, S 02°29'39" E, along and with the east line of said
17 901.854 acre tract, same being the west line of said 294.296 acre
18 tract and said 19.991 acre drainage easement tract, a distance of
19 1,127.28 feet to the northeast corner and POINT OF BEGINNING of the
20 herein described tract;

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

24 THENCE, over and across said 901.854 acre tract, the
25 following courses and distances:

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

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

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

5 Bearing orientation is based on the Texas Coordinate System,
6 South Central Zone 4204, NAD-83 and is referenced to a called
7 901.854 acre tract as cited herein.

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

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

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

22 (d) The general law relating to consent by political
23 subdivisions to the creation of districts with conservation,
24 reclamation, and road powers and the inclusion of land in those
25 districts has been complied with.

26 (e) All requirements of the constitution and laws of this
27 state and the rules and procedures of the legislature with respect

1 to the notice, introduction, and passage of this Act have been
2 fulfilled and accomplished.

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