

By: Taylor of Galveston

S.B. No. 1042

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 69; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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 7970 to read as follows:

CHAPTER 7970. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 69

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7970.001. 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 Brazoria County Municipal Utility District No. 69.

Sec. 7970.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7970.003. 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.

1 Sec. 7970.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 7970.003
3 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 7970.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
8 The district is created to serve a public purpose and benefit.

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

10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas Constitution; and

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 7970.006. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting this chapter form a closure. A mistake made in the
21 field notes or in copying the field notes in the legislative process
22 does not affect the district's:

23 (1) organization, existence, or validity;

24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 7970.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 7970.052, directors serve
6 staggered four-year terms.

7 Sec. 7970.052. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

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

15 (1) the date permanent directors are elected under
16 Section 7970.003; or

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

19 (c) If permanent directors have not been elected under
20 Section 7970.003 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 7970.003; or

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

1 (d) If Subsection (c) applies, the owner or owners of a
2 majority of the assessed value of the real property in the district
3 may submit a petition to the commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 7970.101. GENERAL POWERS AND DUTIES. The district has
10 the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 7970.102. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 7970.103. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 7970.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
24 project must meet all applicable construction standards, zoning and
25 subdivision requirements, and regulations of each municipality in
26 whose corporate limits or extraterritorial jurisdiction the road
27 project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards,
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 7970.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
10 OR RESOLUTION. The district shall comply with all applicable
11 requirements of any ordinance or resolution that is adopted under
12 Section 54.016 or 54.0165, Water Code, and that consents to the
13 creation of the district or to the inclusion of land in the
14 district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 7970.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
17 district may issue, without an election, bonds and other
18 obligations secured by:

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

20 (2) contract payments described by Section 7970.153.

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

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

1 election held for that purpose.

2 Sec. 7970.152. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 7970.151, the district
4 may impose an operation and maintenance tax on taxable property in
5 the district in accordance with Section 49.107, Water Code.

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

8 Sec. 7970.153. CONTRACT TAXES. (a) In accordance with
9 Section 49.108, Water Code, the district may impose a tax other than
10 an operation and maintenance tax and use the revenue derived from
11 the tax to make payments under a contract after the provisions of
12 the contract have been approved by a majority of the district voters
13 voting at an election held for that purpose.

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

17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

18 Sec. 7970.201. AUTHORITY TO ISSUE BONDS AND OTHER
19 OBLIGATIONS. The district may issue bonds or other obligations
20 payable wholly or partly from ad valorem taxes, impact fees,
21 revenue, contract payments, grants, or other district money, or any
22 combination of those sources, to pay for any authorized district
23 purpose.

24 Sec. 7970.202. TAXES FOR BONDS. At the time the district
25 issues bonds payable wholly or partly from ad valorem taxes, the
26 board shall provide for the annual imposition of a continuing
27 direct ad valorem tax, without limit as to rate or amount, while all

1 or part of the bonds are outstanding as required and in the manner
2 provided by Sections 54.601 and 54.602, Water Code.

3 Sec. 7970.203. BONDS FOR ROAD PROJECTS. At the time of
4 issuance, the total principal amount of bonds or other obligations
5 issued or incurred to finance road projects and payable from ad
6 valorem taxes may not exceed one-fourth of the assessed value of the
7 real property in the district.

8 SECTION 2. The Brazoria County Municipal Utility District
9 No. 69 initially includes all the territory contained in the
10 following area:

11 TRACT ONE

12 Being a tract of land containing 158.478 acres (6,903,334
13 square feet), located within the C.W. Groos Survey, Abstract-525 in
14 Brazoria County, Texas; Said 158.478 acre tract being a portion of a
15 called 160 acre tract recorded in the name of Richard Rogers in
16 Volume 103, Page 371 of the Brazoria County Deed Records (B.C.D.R.)
17 and all of a called 13.655 acre tract recorded in the name of H.L.&
18 P. Co. in Volume 1149, Page 240 of the B.C.D.R.; Said 158.478 acre
19 tract being more particularly described by metes and bounds as
20 follows (Bearings are based on the Texas Coordinate System of 1983,
21 South Central Zone per GPS observations):

22 Beginning at a 5/8-inch iron rod found at the southwest
23 corner of a called 40.0000 acre tract of land recorded in the name
24 of Prabhakar Rao Draksharam in Brazoria County Clerk's File Number
25 (B.C.C.F. No.) 2007030107, same being on the north line of a called
26 151.44 acre tract recorded in the name of C.W. Way in Volume 272,
27 Page 103 of the B.C.D.R., for the southeast corner of said 160 acre

1 tract and the herein described tract, said iron rod being on the
2 Right-Of-Way (R.O.W.) line of County Road 128 (30 foot easement
3 reserved along the north line in Volume 124, Page 477 of the
4 B.C.D.R., no easement reserved along the south line of said 160 acre
5 tract found);

6 Thence, with the north line of said 151.44 acre tract and the
7 south line of said 160 acre tract and said 13.655 acre tract, South
8 87 degrees 19 minutes 22 seconds West, a distance of 2634.42 feet to
9 a 5/8-inch iron rod with a Miller Survey Group (MSG) cap set at an
10 angle point in said 151.44 acre tract, for the southwest corner of
11 said 160 acre tract and the herein described tract;

12 Thence, with the upper east line of said 151.44 acre tract,
13 the east line of a called 138.83 acre tract of land recorded in the
14 name of Margurite Massey Smith Charitable Remainder Trust, U.A. in
15 B.C.C.F. No. 2010013347, same being the west line of said 160 acre
16 tract, North 02 degrees 36 minutes 15 seconds West, at a distance of
17 1389.29 feet pass a 5/8-inch iron rod found at the southeast corner
18 of said 138.83 acre tract, same being the upper northeast corner of
19 said 151.44 acre tract, and continue in all a total distance of
20 2634.99 feet to a 5/8-inch iron rod with a MSG cap set for the
21 northwest corner of said 160 acre tract and the herein described
22 tract;

23 Thence, with the north line of said 160 acre tract, said
24 13.655 acre tract and the south line of a called 80 acre tract
25 recorded in the name of Georgeanne and William Reeves in B.C.C.F.
26 No. 99026030, the south line of a called 247.91 acre tract recorded
27 in the name of RMJ Miller Real Estate Holdings, Ltd. in B.C.C.F.

1 No. 2002020349, and the south lines of a called 0.8902 acre tract of
2 land recorded in the name of the City of Pearland in B.C.C.F.
3 No. 2009045975, the following three (3) courses:

4 1. North 87 degrees 17 minutes 52 seconds East, at a
5 distance of 12.2 feet pass a railroad rail in concrete found at the
6 called southwest corner of said 80 acre tract, from which a found
7 1-inch iron pipe bears South 76 degrees 10 minutes East, a distance
8 of 30.8 feet, and at a distance of 1320.06 feet pass a 3/4-inch iron
9 pipe found at the southeast corner of said 80 acre tract and
10 continue in all a total distance of 2227.43 feet to a 5/8-inch iron
11 rod with a MSG cap set at the northwest corner of said 0.8902 acre
12 tract, for the westerly northeast corner of the herein described
13 tract;

14 2. South 51 degrees 39 minutes 45 seconds East, a
15 distance of 165.85 feet to a 5/8-inch iron rod with a CL Davis cap
16 found at the southwest corner of said 0.8902 acre tract, for an
17 angle point in the north line of the herein described tract;

18 3. North 87 degrees 18 minutes 49 seconds East, a
19 distance of 279.87 feet to a 5/8-inch iron rod with a CL Davis cap
20 found the southeast corner of said 0.8902 acre tract, same being on
21 the lower west line of said 247.91 acre tract, and being on the east
22 line of said 160 acre tract, for the easterly northeast corner of
23 the herein described tract;

24 Thence, with the lower west line of said 247.91 acre tract,
25 the west line of said 40.0000 acre tract and the east line of said
26 160 acre tract; South 02 degrees 38 minutes 46 seconds East, at a
27 distance of 1207.41 feet pass a concrete monument found at a

1 southwest corner of said 247.91 acre tract, same being the
2 northwest corner of said 40.0000 acre tract, and continue in all a
3 total distance of 2527.16 feet to the Point of Beginning and
4 containing 158.478 acres of land.

5 TRACT TWO

6 Being a tract of land containing 212.174 acres (9,242,293
7 square feet), located within the H. Stevens Survey, Abstract-593 in
8 Brazoria County, Texas; Said 212.174 acre tract being a portion of a
9 called 138.83 acre tract recorded in the name of Margurite Massey
10 Smith Charitable Remainder Trust U.A. in Brazoria County Clerk's
11 File Number (B.C.C.F. No.) 2010013347, all of a called 5.00 acre
12 tract of land recorded in the name of William Stephen Summers and
13 wife, Lois Winifrede Smith Summers in Volume (V.) 1318, Page 9 (P.)
14 700 of the Brazoria County Deed Records (B.C.D.R.), all of a called
15 5.00 acre tract of land recorded in the name of Lois Winifrede
16 Summers in V. 1775, P. 250 of the B.C.D.R., a portion of a called
17 5.00 acre tract of land recorded in the name of Lois Winifrede
18 Summers in V. 1775, P. 248 of the B.C.D.R., all of a called 10.55
19 acre tract of land recorded in the name of Lois Smith Summers in
20 B.C.C.F. No. 2013052681, a portion of a called 4.45 acre tract of
21 land recorded in the name of Lois Smith Summers in B.C.C.F.
22 No. 2013052682, and all of a called 45.00 acre tract of land
23 recorded in the name of Lois Smith Summers in B.C.C.F.
24 No. 2013052682; Said 212.174 acre tract being more particularly
25 described by metes and bounds as follows (Bearings are based on the
26 Texas Coordinate System of 1983, South Central Zone per GPS
27 observations):

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1 Beginning at a 1-inch iron pipe found at the northwest corner
2 of a called 151.44 acre tract recorded in the name of C.W. Way in
3 Volume 272, Page 103 of the Brazoria County Deed Records, same being
4 on the east line of a Lot 44 of the Allison-Richey Gulf Coast Home
5 Co. Part of Suburban Gardens, a subdivision plat of record in Volume
6 2, Page 89 of the Brazoria County Plat Records (B.C.P.R.), said Lot
7 44, recorded in the name of Plains Exploration & Production
8 Company, L.P. in B.C.C.F. No. 02-033007, for the southwest corner
9 of said 138.83 acre tract and the herein described tract;

10 Thence, with the east line of Lots 44 thru 42 all recorded in
11 said B.C.C.F. No. 02-03307, the east line of Lots 41 and 40 being
12 recorded in the name of Jimmy Brown in B.C.C.F. No. 1998020191, the
13 east line of Lot 39 recorded in said B.C.C.F. No. 02-033007, the
14 east line of Lot 38 recorded in the name of Danny O. Waldon in
15 B.C.C.F. No. 96-0254867, the east line of Lot 37 recorded in the
16 name of International Victory Christian Church in B.C.C.F.
17 No. 2015007219, same being the west line of said 138.83 acre tract,
18 North 02 degrees 36 minutes 15 seconds West, at a distance of
19 2905.73 feet pass a found railroad spike at the northeast corner of
20 said Lot 39, and at a distance of 3862.37 feet pass a 5/8-inch iron
21 rod with a Miller Survey Group (MSG) cap set on the occupied south
22 Right-Of-Way (R.O.W.) line of McKeever Road (County Road 100 width
23 varies, monumented at 62.7 feet, north 20 feet per Volume 2, Page
24 89, B.C.P.R.), and continue in all a total distance of 3897.23 feet
25 to a "P-K" nail set in asphalt pavement for the northwest corner of
26 said 138.83 acre tract and the herein described tract;

27 Thence, with the north line of said 138.83 acre tract, said

1 10.55 acre tract, said 5.00 acre tract (V. 1775, P. 248) and said
2 4.45 acre tract, North 87 degrees 21 minutes 45 seconds East, a
3 distance of 2384.30 feet to a "P-K" nail set in asphalt pavement at
4 the northeast corner of said 4.45 acre tract, for the northeast
5 corner of the herein described tract;

6 Thence, with the east line of said 4.45 acre tract, South 02
7 degrees 36 minutes 15 seconds East, at a distance of 32.55 feet pass
8 a 5/8-inch iron rod with a Miller Survey Group (MSG) cap set on the
9 occupied south R.O.W. line of said McKeever Road, at a distance of
10 41.87 feet pass a 5/8-inch iron rod found, and continue in all a
11 total distance of 246.27 feet to a 5/8-inch iron rod with a cap
12 found on the northeast line of a called 1.1852 acre tract of land
13 recorded in the name of the City of Pearland, Texas in B.C.C.F.
14 No. 2011044376, from which a 5/8-inch iron rod with a CL Davis cap
15 found bears South 51 degrees 41 minutes 48 seconds East, a distance
16 of 12.55 feet;

17 Thence, with the lines of said 1.1852 acre tract, the
18 following four (4) courses:

19 1. North 51 degrees 41 minutes 48 seconds West, a
20 distance of 262.16 feet to a 5/8-inch iron rod with a cap found at an
21 angle point;

22 2. South 87 degrees 18 minutes 40 seconds West, a
23 distance of 49.92 feet to a 5/8-inch iron rod with a cap found at an
24 angle point;

25 3. South 38 degrees 18 minutes 12 seconds West, a
26 distance of 107.26 feet to a 5/8-inch iron rod with a cap found at an
27 angle point;

1 4. South 51 degrees 41 minutes 48 seconds East, a
2 distance of 421.14 feet to a 5/8-inch iron rod with a cap found on
3 the east line of said 4.45 acre tract, from which a 5/8-inch iron
4 rod with a CL Davis cap found bears South 51 degrees 41 minutes 48
5 seconds East, a distance of 12.84 feet;

6 Thence, with the east line of said 4.45 acre tract and the
7 east line of said 138.83 acre tract, South 02 degrees 36 minutes 15
8 seconds East, a distance of 3465.72 feet to a 5/8-inch iron rod
9 found at the northeast corner of said 151.44 acre tract, for the
10 southeast corner of said 138.83 acre tract and the herein described
11 tract;

12 Thence, with the line north line of said 151.44 acre tract and
13 the south line of said 138.83 acre tract and said 45.00 acre tract,
14 South 87 degrees 21 minutes 45 seconds West, a distance of 2384.30
15 feet to the Point of Beginning and containing 212.174 acre of land.

16 Save and except the following 0.1697 acre tract:

17 Being a tract of land containing 0.1697 acres (7,394 square
18 feet), located in the H. Stevens Survey, Abstract-593 in Brazoria
19 County, Texas; Said 0.1697 acre tract being all of a called 0.1319
20 acre tract of land recorded in the name of the City of Pearland,
21 Texas in B.C.C.F. No. 2011044376 and all of a called 0.0378 acre
22 tract of land recorded in the name of the City of Pearland, Texas in
23 B.C.C.F. No. 2011044379; Said 0.1697 acre tract being more
24 particularly described by metes and bounds as follows (Bearings are
25 based on the Texas Coordinate System of 1983, South Central Zone per
26 GPS observations):

27 Commencing at a 5/8-inch iron rod found at the northeasterly

1 corner of a called 1.1852 acre tract recorded in the name of the
2 City of Pearland, Texas in B.C.C.F. No. 2011044376;

3 Thence, through and across a called 4.45 acre tract recorded
4 in the name of Lois Smith Summers in B.C.C.F. No. 2013052682, North
5 51 degrees 41 minutes 48 seconds West, a distance of 18.29 feet to a
6 5/8-inch iron rod with a MSG cap set at the southeast corner of said
7 0.1319 acre tract for the southeast corner of and Point of Beginning
8 of the herein described tract;

9 Thence, with the south line of said 0.1319 acre tract and
10 0.0378 acre tract, South 87 degrees 18 minutes 47 seconds West, a
11 distance of 263.76 feet to a 5/8-inch iron rod found at the
12 southwest corner of said 0.0378 acre tract, for the southwest
13 corner of the herein described tract;

14 Thence, with the west line of said 0.0378 acre tract, North 02
15 degrees 41 minutes 13 seconds West, a distance of 30.00 feet to a
16 5/8-inch iron rod with a MSG cap set at the northwest corner of said
17 0.0378 acre tract, for the northwest corner of the herein described
18 tract;

19 Thence, with the north line of said 0.0378 acre tract and
20 0.1319 acre tract, North 87 degrees 18 minutes 47 seconds East, a
21 distance of 229.23 feet to a 5/8-inch iron rod with a MSG cap set at
22 the northeast corner of said 0.1319 acre tract, for the northeast
23 corner of the herein described tract;

24 Thence, with the easterly line of said 0.1319 acre tract,
25 South 51 degrees 41 minutes 48 seconds East, a distance of 45.74
26 feet to the Point of Beginning and containing 0.1697 acres of land.

27 SECTION 3. (a) The legal notice of the intention to

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

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

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

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

18 SECTION 4. (a) If this Act does not receive a two-thirds
19 vote of all the members elected to each house, Subchapter C, Chapter
20 7970, Special District Local Laws Code, as added by Section 1 of
21 this Act, is amended by adding Section 7970.106 to read as follows:

22 Sec. 7970.106. NO EMINENT DOMAIN POWER. The district may
23 not exercise the power of eminent domain.

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

27 SECTION 5. This Act takes effect immediately if it receives

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