By:  Miller (Senate Sponsor - Kolkhorst) H.B. No. 3019

(In the Senate - Received from the House May 8, 2019; May 10, 2019, read first time and referred to Committee on Intergovernmental Relations; May 17, 2019, reported favorably by the following vote: Yeas 7, Nays 0; May 17, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Lucio                X

Schwertner           X

Alvarado             X

Campbell             X

Fallon               X

Menéndez             X

Nichols              X

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 234; 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 8055 to read as follows:

CHAPTER 8055. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 234

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8055.0101.  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. 234.

Sec. 8055.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8055.0103.  CONFIRMATION AND DIRECTOR 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. 8055.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8055.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8055.0105.  FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

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

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

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

Sec. 8055.0106.  INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1)  organization, existence, or validity;

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

(3)  right to impose a tax; or

(4)  legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8055.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 8055.0202, directors serve staggered four-year terms.

Sec. 8055.0202.  TEMPORARY DIRECTORS. (a) On or after September 1, 2019, 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 8055.0103; or

(2)  September 1, 2023.

(c)  If permanent directors have not been elected under Section 8055.0103 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 8055.0103; or

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

(d)  If Subsection (c) applies, 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 successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8055.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8055.0302.  MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8055.0303.  AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8055.0304.  ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

Sec. 8055.0305.  COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8055.0401.  ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1)  revenue other than ad valorem taxes; or

(2)  contract payments described by Section 8055.0403.

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

(c)  The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8055.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8055.0401, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 8055.0403.  CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8055.0501.  AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8055.0502.  TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8055.0503.  BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2.  The Fort Bend County Municipal Utility District No. 234 initially includes all the territory contained in the following area:

Being a 312.47 acre tract of land, located in the Mills M. Battle League, Abstract-9, Fort Bend County, Texas; said 312.47 acre tract being all of a called 311.889 acre tract, Tract 2, recorded in the name of State of Texas for the use and benefit of the Permanent School Fund, under Fort Bend County Clerk's File Number (F.B.C.C.F.No.) 2003023371, also being all of a called 311.885 acres, Tract 2, of State of Texas Department of Highways and Public Transportation, a subdivision plat of which is recorded under Slides Number 1831B and 1832A, Plat Records of Fort Bend County, Texas (P.R.F.B.C.T.); said 312.47 acre tract being more particularly described by metes and bounds as follows (All bearings and coordinates refer to the Texas Coordinate System of 1983, South Central Zone, obtained from GPS Observation of monuments at either end of the southerly boundary line (called South 65 degrees 40 minutes 41 seconds West, 3,232.12 feet, under said F.B.C.C.F.No. 2003023371; and South 65 degrees 40 minutes 46 seconds West, 3,232.12 feet, under said Slides Number 1831B and 1832A, P.R.F.B.C.T.); (All bearings and coordinates are grid and may be converted to surface by applying the combined scale factor of 0.999875); GPS observations referenced to base stations: DH3618 TXRO ROSENBERG CORS ARP, DF5352 ANG1 ANGLETON 1 CORS ARP, and DF4379 TXHU HOUSTON RRP2 CORS ARP; and processed through OPUS):

BEGINNING at a 5/8-inch iron rod found, with aluminum cap marked Texas Department of Corrections (X=3,025,310.72; Y=13,782,264.28), marking the southwest corner of said 311.889 acre tract, the southeast corner of a called 20 acre tract recorded in the name of Robert Schumann in Volume 66, Page 486, Probate Records of Fort Bend County, Texas, said rod being in the west line of said Mills M. Battle League, and the east line of the J. H. Cartwright League, Abstract-16, said rod also being in the northerly right-of-way (R.O.W.) line of the Southern Pacific Railroad (100 feet wide; Volume V, Page 226, and Volume 39, Page 220, both of the Deed Records of Fort Bend County, Texas (D.R.F.B.C.T.), for the southwest corner of the herein described tract;

THENCE, with the west line of said Mills M. Battle League and said 311.889 acre tract, being the east line of said J. H. Cartwright League, being the east lines of the following six (6) tracts of land: said 20 acre tract; a called 63.275 acre tract recorded in the name of Robert Schumann, et al, in Volume 2154, Page 1748, D.R.F.B.C.T.; Chelsea Harbour, Sec. 1, a subdivision plat of which is recorded under Slides Number 2218B, 2219A and 2219B, P.R.F.B.C.T.; Chelsea Harbour, Sec. 2, a subdivision plat of which is recorded under Slides Number 2453B and 2454A, P.R.F.B.C.T,; a called 37.6535 acre tract recorded in the name of Campbell Concrete & Materials, L.P., under F.B.C.C.F.No. 9825453; and a called 40.0 acre tract recorded in the name of Timothy Lee Schumann, et al, under F.B.C.C.F.No. 2003074810; North 02 degrees 47 minutes 14 seconds West, passing at a distance of 902.09 feet, a 1/2-inch iron pipe (disturbed) found 1.7 feet East of line, passing at 1,426.25 feet, a 1/2-inch iron pipe (disturbed) found 1.9 feet East of line, passing at 1,950.35 feet, a 1/2-inch iron pipe (disturbed) found 2.1 feet East of line, passing at 2,475.25 feet, a 1/2-inch iron pipe found 2.2 feet East of line, passing at 3,015.52 feet, a 1/2-inch iron pipe found at a fence corner 2.7 feet East of line, passing at 4,554.09 feet, a 1/2-inch iron pipe found 2.9 feet East of line, passing at 5,716.72 feet, a 1-inch iron pipe found marking a reference point on the high-bank of Oyster Creek, continuing in all a total distance of 5,816.84 feet (called North 02 degrees 47 minutes 15 seconds West, 5,816.84 feet, under said F.B.C.C.F.No. 2003023371; and North 02 degrees 47 minutes 10 seconds West, 5,816.84 feet, under said Slides Number 1831B and 1832A, P.R.F.B.C.T.), to a point at the northwest corner of said 311.889 acre tract, and the southwest corner of a called 310.602 acre tract recorded in the name of The Houston Parks Board, in Volume 2161, Page 882, D.R.F.B.C.T., in the centerline of said Oyster Creek , for the northwest corner of the herein described tract;

THENCE, along the northerly lines of said 311.889 acre tract, and the southerly lines of said 310.602 acre tract, being the centerline of said Oyster Creek, the following twenty-three (23) courses:

1.  North 28 degrees 48 minutes 31 seconds East, a distance of 56.10 feet, to an angle point;

2.  North 62 degrees 55 minutes 53 seconds East, a distance of 113.39 feet, to an angle point;

3.  North 77 degrees 44 minutes 38 seconds East, a distance of 365.14 feet, to an angle point;

4.  South 87 degrees 27 minutes 26 seconds East, a distance of 153.90 feet, to an angle point;

5.  South 61 degrees 26 minutes 43 seconds East, a distance of 176.89 feet, to an angle point;

6.  South 47 degrees 07 minutes 30 seconds East, a distance of 141.17 feet, to an angle point;

7.  South 59 degrees 07 minutes 05 seconds East, a distance of 174.90 feet, to an angle point;

8.  South 36 degrees 41 minutes 05 seconds East, a distance of 119.78 feet, to an angle point;

9.  South 26 degrees 38 minutes 40 seconds East, a distance of 386.47 feet, to an angle point;

10.  South 21 degrees 03 minutes 17 seconds East, a distance of 195.66 feet, to an angle point;

11.  South 28 degrees 51 minutes 45 seconds East, a distance of 313.25 feet, to an angle point;

12.  South 54 degrees 11 minutes 56 seconds East, a distance of 125.49 feet, to an angle point;

13.  South 66 degrees 58 minutes 32 seconds East, a distance of 83.72 feet, to an angle point;

14.  South 71 degrees 22 minutes 55 seconds East, a distance of 164.67 feet, to an angle point;

15.  South 81 degrees 06 minutes 18 seconds East, a distance of 242.28 feet, to an angle point;

16.  South 88 degrees 00 minutes 32 seconds East, a distance of 218.36 feet, to an angle point;

17.  North 88 degrees 28 minutes 11 seconds East, a distance of 220.44 feet, to an angle point;

18.  North 86 degrees 08 minutes 50 seconds East, a distance of 102.54 feet, to an angle point;

19.  North 74 degrees 01 minutes 18 seconds East, a distance of 64.46 feet, to an angle point;

20.  North 62 degrees 38 minutes 26 seconds East, a distance of 128.70 feet, to an angle point;

21.  North 45 degrees 43 minutes 00 seconds East, a distance of 129.35 feet, to an angle point;

22.  North 49 degrees 07 minutes 47 seconds East, a distance of 117.34 feet, to an angle point;

23.  North 48 degrees 31 minutes 10 seconds East, a distance of 88.29 feet, to the northeast corner of said 311.889 acre tract, in the westerly line of the residue of a 5,202.88 acre tract recorded in the name of Central Prison Farm, in Volume 152, Page 425, D.R.F.B.C.T., for the northeast corner of the herein described tract;

THENCE, with the east line of said 311.889 acre tract, and the west line of said residue tract, South 02 degrees 47 minutes 39 seconds East, passing at 92.26 feet, a 1 inch iron pipe found marking a reference on the high-bank of said Oyster Creek, continuing in all a total distance of 3,597.17 feet (called South 02 degrees 47 minutes 40 seconds East, 3,586.77 feet, under said F.B.C.C.F.No. 2003023371; and South 02 degrees 47 minutes 41 seconds East, 3,586.75 feet, under said Slides Number 1831B and 1832A, P.R.F.B.C.T.), to a capped 5/8-inch iron rod (X=3,028,255.61; Y=13,783,595.29), marked Miller Survey Group set at the southeast corner of said 311.889 acre tract, and the southwest corner of said residue tract, being in the northerly R.O.W. line of said Southern Pacific Railroad, for the southeast corner of the herein described tract;

THENCE, with the south line of said 311.889 acre tract, and the northerly R.O.W. line of said Southern Pacific Railroad, South 65 degrees 40 minutes 42 seconds West, a distance of 3,232.11 feet, to the POINT OF BEGINNING and containing 312.47 acres of land.

Approximately 15.29 acres of this tract lies within the boundaries of AE floodway of oyster creek, as shown on the recorded plat of State of Texas State Department of Highways and Public Transportation.

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

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

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

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

SECTION 4.  (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8055, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8055.0306 to read as follows:

Sec. 8055.0306.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

SECTION 5.  This Act takes effect September 1, 2019.

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