By:  Stephenson (Senate Sponsor - Kolkhorst) H.B. No. 3422

(In the Senate - Received from the House April 23, 2019; April 24, 2019, read first time and referred to Committee on Intergovernmental Relations; May 6, 2019, reported favorably by the following vote: Yeas 7, Nays 0; May 6, 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. 231; 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 8070 to read as follows:

CHAPTER 8070. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 231

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8070.0101.  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. 231.

Sec. 8070.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8070.0103.  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. 8070.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8070.0103 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. 8070.0105.  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. 8070.0106.  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. 8070.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 8070.0202, directors serve staggered four-year terms.

Sec. 8070.0202.  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 8070.0103; 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 8070.0103 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 8070.0103; 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. 8070.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8070.0302.  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. 8070.0303.  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. 8070.0304.  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. 8070.0305.  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. 8070.0401.  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 8070.0403.

(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. 8070.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8070.0401, 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. 8070.0403.  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. 8070.0501.  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. 8070.0502.  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. 8070.0503.  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. 231 initially includes all the territory contained in the following area:

Being a 309.21 acre tract of land located in the H. & T. C. R.R. Co. Survey, Section 85, Abstract No. 247 and H. & T. C. R.R. Co. Survey, Section 90, Abstract No. 507 in Fort Bend County, Texas; said 309.21 acre tract being all of the remainder of a called 100-acre tract of land conveyed to Henry Fuchs in Clerk's File Number 2015129371 of the Official Public Records of Fort Bend County (O.P.R.F.B.C.), all of the remainder of a called 209-acre tract of land conveyed to Carl F. Fischer and wife, Diane Fischer, and Donald H. Fischer and wife, Sherry Fischer in Volume 875, Page 55 of the Fort Bend County Deed Records (F.B.C.D.R.), and a portion of Wernecke Road (60-feet wide); said 309.21 acre tract being more particularly described by metes and bounds as follows (all bearings are referenced to the Texas Coordinate System, North American Datum 1983 (NAD 83), South Central Zone);

Beginning at an iron stake found at the most southerly corner of said 209-acre tract and the most westerly corner of a called 50.0- acre tract of land recorded in the name of M.T. Cyplik in Clerk's File No. 9769464 of the O.P.R.F.B.C. and being on the northeasterly right-of-way line of Meyer Road (40.00 feet wide);

1.  Thence, with the southwesterly line of said 209-acre tract and said northeasterly right-of-way line of Meyer Road, North 48 degrees 09 minutes 38 seconds West, a distance of 1,741.90 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC" found at the most westerly corner of this 309.21-acre tract, being on the southeasterly right-of-way line of Wernecke Road (60.00 feet wide);

2.  Thence, with the northwesterly line of said 209-acre tract and said southeasterly right-of-way line of Wernecke Road, North 41 degrees 51 minutes 19 seconds East, a distance of 2643.75 feet;

3.  Thence, North 47 degrees 53 minutes 47 seconds West, at 30.00-feet pass the south corner of aforesaid 100-acre tract and the east corner of a called 61.09-acre tract recorded in Clerk's File Number 2006081947 of the O.P.R.F.B.C. and being the centerline of said Wernecke Road, in all a total distance of 1,700.74 feet to an axel found for the west corner of said called 100-acre tract and the south corner of a called 108.1-acre tract of land recorded in Clerk's File Number 2014019607 of the O.P.R.F.B.C.;

4.  Thence, with the common line of said called 100-acre tract and said called 108.1-acre tract, North 41 degrees 49 minutes 16 seconds East, a distance of 2,571.79 feet to a 1-1/2-inch iron pipe found on the southwesterly right-of-way line of FM 360 (Beasley-Needville Road, 80.00 feet wide per TxDOT right-of-way map of FM 360, CSJ No. 527-6-6, dated August 19, 1968);

5.  Thence, with said southwesterly right-of-way line of FM 360, South 47 degrees 57 minutes 06 seconds East, a distance of 3,447.86 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC" found on the southeasterly line of said 209-acre tract, being the most northerly corner of a called 49.9822 acre tract of land recorded in the name of Jose A. Tejada in C.F. No. 2005115202 of the O.P.R.F.B.C., from which a found eye-bolt bears South 41 degrees 53 minutes 44 seconds West, a distance of 0.71 feet;

6.  Thence, with said southwesterly line of the 209-acre tract, the northeasterly line of said 49.9822-acre tract, and the northeasterly line of aforesaid 50.0-acre tract, South 41 degrees 53 minutes 44 seconds West, a distance of 5,210.82 feet to the Point of Beginning and containing 309.21 acres of land.

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 8070, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8070.0306 to read as follows:

Sec. 8070.0306.  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 immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

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