By:  Oliverson (Senate Sponsor - Bettencourt) H.B. No. 4651

(In the Senate - Received from the House April 29, 2019; April 29, 2019, read first time and referred to Committee on Administration; May 3, 2019, reported favorably by the following vote: Yeas 4, Nays 0; May 3, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Hughes          X

Fallon          X

Huffman                   X

Johnson         X

Menéndez                  X

Nichols                   X

Zaffirini       X

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Harris County Municipal Utility District No. 571; 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 8098 to read as follows:

CHAPTER 8098. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 571

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8098.0101.  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 Harris County Municipal Utility District No. 571.

Sec. 8098.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8098.0103.  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. 8098.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8098.0103 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. 8098.0105.  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. 8098.0106.  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. 8098.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 8098.0202, directors serve staggered four-year terms.

Sec. 8098.0202.  TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1)  Binh Chau;

(2)  Todd Brown;

(3)  Stephanie E. Tabor;

(4)  Adlena Leemhuis; and

(5)  Jennifer Day.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 8098.0103; 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 8098.0103 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 8098.0103; 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. 8098.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8098.0302.  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. 8098.0303.  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. 8098.0304.  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. 8098.0305.  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. 8098.0401.  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 8098.0403.

(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. 8098.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8098.0401, 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. 8098.0403.  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. 8098.0501.  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. 8098.0502.  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. 8098.0503.  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 Harris County Municipal Utility District No. 571 initially includes all the territory contained in the following area:

That tract of land situated in the Chauncey Goodrich Survey, A-311, in Harris County, Texas, and out of the 131.3702 acre tract described as Tract 2 in the deed from Charles T. Haynes Jr. and Glenda K. Haynes, Trustees of the Haynes Family Revocable Trust to Cunningham Interests II, Ltd, recorded under File Number 20120265722, of the Official Public Records of Harris County, Texas, and out of the 31.4393 acre tract described in the deed from Lisa M. Krakosky and spouse, Dean M. Krakosky, John P. McShan, Mark S. McShan, Lisa M. Krakosky and Andrew J. McShan, to APITX 3, LLC, recorded under File No. RP-2017-304570, of the Official Public Records of Harris County, Texas, and more particularly described by metes and bounds as follows:

Basis of bearing is based on the record bearing of aforesaid Tract 2 (which has a basis of bearing of North 89° 39' 06" East along the common line of the remainder of the 14 acre tract as described in a deed filed for record under Harris County Clerk's File No. R-965836, and the 33.2209 acre tract as described in a deed filed for record under Harris County Clerk's File No. Z-331462);

BEGINNING at a point (called in RP-2017-304570: a 1 inch iron pipe next to a rail road beam found on the east right-of-way line of Telge Road (60 feet wide) as recorded in Vol. 78, Pg. 262, of the Harris County Deed Records (H.C.D.R.), marking the northwest corner of a called 27.5033 acre tract of land conveyed to Graceview Baptist Church, as recorded under H.C.C.F. No. RP-2016-456441, the southwest corner of said called 31.478 acre tract, and the southwest corner of the herein described tract) for the southwest corner of the herein described tract;

THENCE North 00° 13' 02" West - 59.18' (called in RP-2017-304570: North 02 Deg. 18 Min. 03 Sec. West with the east right-of-way line of said Telge Road, a distance of 59.18 feet to a capped 5/8-inch iron rod stamped "Windrose Land Services" set marking the southwest corner of a called 3.792 acre tract of land conveyed to Jerry B. Boyd, et ux, as recorded under H.C.C.F. No. 20080575074, and the westerly northwest corner of the herein described tract, from which a found 5/8-inch iron rod bears South 78 Deg. 56 Min. 56 Sec. East, a distance of 0.64 feet), to a westerly northwest corner of the herein described tract;

THENCE North 89° 59' 01" East - 866.69' (called in RP-2017-304570: North 87 Deg. 54 Min. 00 Sec. East, with the south line of said called 3.792 acre tract and the south line of a called 5.084 acre tract of land conveyed to E. Wheeler Coe, Jr., and recorded under H.C.C.F. No. R033492, a distance of 866.69 feet to a 1/2-inch iron rod found marking the southeast corner of said called 5.084 acre tract and an interior corner of the herein described tract), to an angle corner of the herein described tract;

THENCE North 00° 21' 08" East - 689.64' (called in RP-2017-304570: North 01 Deg. 43 Min. 53 Sec. West, with the east line of said called 5.084 acre tract, passing at a distance of 596.19 feet a 5/8-inch iron rod round marking the northeast corner of said called 5.084 acre tract, and the southeast corner of a called 3.970 acre tract of land conveyed to Michael C. Vollbrecht, as recorded under H.C.C.F. No. RP-2016-336364, in all a distance of 689.64 feet to a capped 5/8-inch iron rod stamped "Windrose Land Services" set marking the southwest corner of a called 17.409 acre tract of land conveyed to Allen Pennington, as recorded under H.C.C.F. No. 20140517739, and the northerly northwest corner of the herein described tract, from which a found 1-inch iron pipe bears North 48 Deg. 57 Min. 18 Sec. East, a distance of 3.29 feet), to a westerly northwest corner of the herein described tract;

THENCE North 89° 22' 04" East - 809.13' (called in RP-2017-304570: North 87 Dec. 17 Min. 03 Sec. East, with the south line of said called 17.409 acre tract, a distance of 809.13 feet to a 1-inch iron rod found marking the southeast corner of said called 17.409 acre tract, the southwest corner of a called 3.1720 acre tract of land conveyed to Mario Jimenez, as recorded under H.C.C.F. No. 20090343492, and an angle point in the north line of the herein described tract), to an angle corner of the herein described tract;

THENCE South 89° 59' 34" East - 929.13' (called in RP-2017-304570: North 87 Deg. 55 Min. 25 Sec. East, with the south line of said called 3.1720 acre tract, the south line of a called 0.814 acre tract of land conveyed to Timothy James Kraemer, as recorded under H.C.C.F. No. 20070586673, and the south line of a called 2.1463 acre tract of land conveyed to Fred Joseph Wonk and Debra Kathryn Pate, as recorded under H.C.C.F. No. 20130584290, a distance of 929.13 feet to a 1-inch iron pipe found on the west line of a called 131.3702 acre tract of land conveyed to Cunningham Interests II, Ltd., as recorded under H.C.C.F. No. 20120265722, marking the southeast corner of said 2.1463 acre tract, and the northeast corner of the herein described tract), to an interior angle corner of the herein described tract;

THENCE North 00° 04' 02" West - 1.07' (called in 20120265722: along the common line of said North tract (that certain call 42.2857 acre tract of land described in a deed filed for record under Harris County Clerk's File No. Z-331458) and said 31.478 acre tract of land (as described in a deed filed for record under Harris County Clerk's File No. X-573459) to a 1" iron pipe (found) for angle point marking the Northeast corner of said 31.478 acre tract of land and the Southeast corner of Lot 15 in Block 3 of said Treichel Wood Estates (unrecorded) as described in a deed filed for record under Harris County Clerk's File No. 2010349120), to an angle corner of the herein described tract:

THENCE North 00° 21' 36" West - 1247.73' (called in 20120265722: along the common line of said Treichel Wood Estates and said North tract, passing at call 607.98 feet the Northwest corner of said North tract and the Southwest corner of the remainder of said 39.4277 acre tract of land (described in a deed filed for record under Harris County Clerk's File No. P-215054), a total distance of 1,247.73 feet to a 3/4" iron pipe (found) in the South line of Lot 42 of Treichel Wood Estates, (unrecorded), marking the Northeast corner of Lot 44 in Block 4 of said Treichel Wood Estates as described in a deed filed for record under Harris County Clerk's File No. J-673788, the Northwest corner of the remainder of said 39.4277 acre tract of land) to the most northerly northwest corner of the herein described tract;

THENCE South 89° 59' 48" East - 433.11 (called in 20120265722: along the common line of the remainder of said 39.4277 acre tract of land and said Treichel Wood Estates to a 1-1/4" iron pipe (found) for an angle point marking the Southeast corner of Lot 37 in Block 4 of said Treichel Wood Estates as described in a deed filed for record under Harris County Clerk's File No. L-094431 and the Southwest corner of that certain call 1.0629 acre tract of land known as Tract 10 A as described in a deed filed for record under Harris County Clerk's File No. S-674840) to an angle corner of the herein described tract;

THENCE South 89° 58' 37" East - 839.57' (called in 20120265722: along the common line of the remainder of said 39.4277 acre tract of land and said Tract 10A to a 3/4" iron pipe (found) for angle point marking the Southeast corner of that certain call 3.3726 acre remainder tract of land known as Tract 10 G, 10 G1 and 10 G2 out of that certain call 4.3276 acre tract of land described in a deed filed for record under Harris County Clerk's File No. G-445448 and the Southwest corner of the remainder of that certain call 17 acre tract of land as described in a deed filed for record in Volume 285, Page 363 of said Harris County Deed Records) to an angle corner of the herein described tract;

THENCE North 89° 59' 01" East - 34.92' (called in 20120265722: along the common line of the remainder of said 39.4277 acre tract of land and the remainder of said 17 acre tract of land to a point for corner in a Harris County Flood Control Ditch marking the Southeast corner of the remainder of said 17 acre tract of land, the Southwest corner of said 3 acre tract of land (described in a deed filed for record under Harris County Clerk's File No. R-965831)), to an angle corner of the herein described tract;

THENCE North 89° 59' 00" East - 591.39' (calculated) to (called in 20120265722: a 2" iron pipe (found) in the North line of the remainder of said 39.4277 acre tract of land marking the Southeast corner of the remainder of said 14 acre tract of land (described in a deed filed for record under Harris County Clerk's File No. R-965836), the Southwest corner of said 10.08 acre tract of land (described in a deed filed for record under Harris County Clerk's File No. B-477153) an angle corner of the herein described tract;

THENCE South 89° 56' 36" East - 784.05' (called in 20120265722: along the common line of said 10.08 acre and the remainder of said 39.4277 acre tract of land to a 1" iron pipe (found bent) in the East line of said Chauncey Goodrich Survey, the West line of the John Hooper Survey, A-325 in said Harris County, Texas and the West line of that certain call 1.9160 acre tract of land known as Tract 2 G as described in a deed filed for record under Harris County Clerk's File No. H-893093 marking the Southeast corner of said 10.08 acre tract of land, the Northeast corner of the remainder of said 39.4277 acre tract) to the northeast corner of the herein described tract;

THENCE South 00° 55' 02" East - 639.13' (called in 20120265722: along the common line of the remainder of said 39.4277 acre tract of land, said Chauncey Goodrich Survey, said Tract 2 G and said John Hooper Survey to a 5/8" iron rod (found) for angle point in the West line of that certain call 8.612 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. N-090793 marking the Southeast corner of the remainder of said 39.4277 acre tract of land the Northeast corner of said North tract), to an angle corner of the herein described tract;

THENCE South 00° 53' 39" East - 683.76' (called in 20120265722: along the common line of said North tract, said Chauncey Goodrich Survey, said 8.612 acre tract of land and said John Hooper Survey to a 5/8" iron rod (found) for angle point in the West line of that certain call 10.4400 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. D-858395 marking the Southeast corner of said North tract and the Northeast corner of said South tract (that certain call 42.2857 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. 20090332908)), to an angle corner of the herein described tract;

THENCE South 01° 31' 34" East - 49.35' (called in 20120265722: along the common line of said South tract, said Chauncey Goodrich Survey, said 10.4400 acre tract of land and said John Hooper Survey to a 1/2" iron rod (found) for angle point marking the Southwest corner of said 10.4400 acre tract of land and the Northwest corner of that certain call 1.0000 acre tract of land known as Lot 15 A in Calvert Subdivision, (unrecorded), as described in a deed filed for record under Harris County Clerk's File No. D-280475), to an angle corner of the herein described tract;

THENCE South 00° 53' 06" East - 290.16' (called in 20120265722: along the common line of said South tract, said Chauncey Goodrich Survey, said Lot 15 A and said John Hooper Survey to a 1/2" iron rod (found) for angle point marking the Southwest corner of said Lot 15 A and the Northwest corner of Olin Road, (60.00 feet in width)), to an angle corner of the herein described tract;

THENCE South 00° 50' 01" East - 342.17' (called in 20120265722: along the common line of said South tract, said Chauncey Goodrich Survey, said Olin Road and said John Hooper Survey, passing at 60.00 feet the Southwest corner of said Olin Road and the Northwest corner of that certain call 0.04458 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. V-223565, a total distance of 342.17 feet, to a 5/8" iron rod (found) in the North line of the John Hooper Survey, A-375 in said Harris County, Texas and the North line of that certain call 233 acre tract of land as described in a deed filed for record in Volume 16, Page 166 of said Harris County Deed Records marking the Southwest corner of said 0.04458 acre tract of land, the Southeast corner of said Chauncey Goodrich Survey, A-311, the Southwest corner of said John Hooper Survey, A-325, the Southeast corner of said South tract), to the southeast corner of the herein described tract;

THENCE South 89° 59' 05" West - 1255.61' (called in 20120265722: along the common line of said South tract, said Chauncey Goodrich Survey, said 233 acre tract of land and said John Hooper Survey to a 1-1/4" iron pipe (found) for angle point marking the Northwest corner of said 233 acre tract of land and the Northeast corner of that certain call 25.25 acre tract of land known as Tract 2 as described in a deed filed for record under Harris County Clerk's File No. U-132699), to an angle corner of the herein described tract;

THENCE South 89° 55' 49" West - 1399.66' (called in 20120265722: along the common line of said South tract, said Chauncey Goodrich Survey, said Tract 2 and said John Hooper Survey, passing at call 699.77 feet the Northwest corner of said Tract 2 and the Northeast corner of that certain call 25.20 acre tract of land known as Tract 1 as described in a deed filed for record under Harris County Clerk's File No. U-132699, a total distance of 1,399.66 feet, to a T-Rail (found) for angle point marking the Northwest corner of said Tract 1 and the Northeast corner of that certain call 27.507 acre tract of land described in a deed filed for record under Harris County Clerk's File No. R-075089), to an angle corner of the herein described tract;

THENCE South 89° 27' 44" West - 48.77' (called in 20120265722: along the common line of said South tract, said Clauncey Goodrich Survey, said 27.507 acre tract and said John Hooper Survey to a 1" iron pipe (found) in the North line of said 27.507 acre tract of land marking the Southwest corner of said South tract, the Southeast corner of that certain call 31.478 acre tract of land as described in a deed filed for record under Harris County Clerk's File No. X-573459) and (called in RP-2017-304570: a capped 5/8 inch iron rod stamped "Windrose Land Services" set on the north line of said called 27.5033 acre tract, marking the southwest corner of said called 131.3702 acre tract, from which a found 1-inch iron pipe bears South 02 Deg. 17 Min. 53 Sec. East, a distance of 0.49 feet), and an angle corner of the herein described tract;

THENCE North 89° 58' 31" West - 2611.75' (called in RP-2017-304570: South 87 Deg. 56 Min. 28 Sec. West, with the north line of said called 27.5033 acre tract, a distance of 2611.75 feet) to the POINT OF BEGINNING and containing 155.4 acres.

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 8098, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8098.0306 to read as follows:

Sec. 8098.0306.  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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