

By: Stephenson

H.B. No. 2060

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 233; 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 8068 to read as follows:

CHAPTER 8068. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 233

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8068.0101. 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. 233.

Sec. 8068.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8068.0103. 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.

1       Sec. 8068.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 8068.0103 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. 8068.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8       (a) 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. 8068.0106. 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. 8068.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 8068.0202, directors  
6 serve staggered four-year terms.

7           Sec. 8068.0202. TEMPORARY DIRECTORS. (a) The temporary  
8 board consists of:

9                   (1) KayeLynn White;

10                  (2) James Grissom;

11                  (3) Whitney Aelmore;

12                  (4) Juan Alexander; and

13                  (5) Shanda Conroy.

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

15                   (1) the date permanent directors are elected under  
16 Section 8068.0103; 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 8068.0103 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 8068.0103; 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. 8068.0301. GENERAL POWERS AND DUTIES. The district  
10 has the powers and duties necessary to accomplish the purposes for  
11 which the district is created.

12       Sec. 8068.0302. 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. 8068.0303. 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. 8068.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
24 road project must meet all applicable construction standards,  
25 zoning and subdivision requirements, and regulations of each  
26 municipality in whose corporate limits or extraterritorial  
27 jurisdiction the road 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. 8068.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
10 ORDINANCE OR RESOLUTION. The district shall comply with all  
11 applicable requirements of any ordinance or resolution that is  
12 adopted under Section 54.016 or 54.0165, Water Code, and that  
13 consents to the creation of the district or to the inclusion of land  
14 in the district.

15       Sec. 8068.0306. LIMITATION ON USE OF EMINENT DOMAIN. The  
16 district may not exercise the power of eminent domain outside the  
17 district boundaries to acquire a site or easement for:

18               (1) a recreational facility, as defined by Section  
19 49.462, Water Code; or

20               (2) a road project authorized by Section 8068.0303.

21       SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

22       Sec. 8068.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
23 The district may issue, without an election, bonds and other  
24 obligations secured by:

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

26               (2) contract payments described by Section 8068.0403.

27       (b) The district must hold an election in the manner

1 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
2 before the district may impose an ad valorem tax or issue bonds  
3 payable from ad valorem taxes.

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

8 Sec. 8068.0402. OPERATION AND MAINTENANCE TAX. (a) If  
9 authorized at an election held under Section 8068.0401, the  
10 district may impose an operation and maintenance tax on taxable  
11 property in the district in accordance with Section 49.107, Water  
12 Code.

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

15 Sec. 8068.0403. CONTRACT TAXES. (a) In accordance with  
16 Section 49.108, Water Code, the district may impose a tax other than  
17 an operation and maintenance tax and use the revenue derived from  
18 the tax to make payments under a contract after the provisions of  
19 the contract have been approved by a majority of the district voters  
20 voting at an election held for that purpose.

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

24 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

25 Sec. 8068.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
26 OBLIGATIONS. The district may issue bonds or other obligations  
27 payable wholly or partly from ad valorem taxes, impact fees,

1 revenue, contract payments, grants, or other district money, or any  
2 combination of those sources, to pay for any authorized district  
3 purpose.

4 Sec. 8068.0502. TAXES FOR BONDS. At the time the district  
5 issues bonds payable wholly or partly from ad valorem taxes, the  
6 board shall provide for the annual imposition of a continuing  
7 direct ad valorem tax, without limit as to rate or amount, while all  
8 or part of the bonds are outstanding as required and in the manner  
9 provided by Sections 54.601 and 54.602, Water Code.

10 Sec. 8068.0503. BONDS FOR ROAD PROJECTS. At the time of  
11 issuance, the total principal amount of bonds or other obligations  
12 issued or incurred to finance road projects and payable from ad  
13 valorem taxes may not exceed one-fourth of the assessed value of the  
14 real property in the district.

15 SECTION 2. The Fort Bend County Municipal Utility District  
16 No. 233 initially includes all the territory contained in the  
17 following area:

18 Being a 210.3-acre tract of land located in the J. D.  
19 Vermillion Survey, A-340 and the B. B. B. & C. R.R. Co. Survey  
20 No. 11, A-132, Fort Bend County, Texas; said 210.3-acre tract being  
21 the remainder of a called 222.87-acre tract of land originally  
22 conveyed to F.X. Joerger in Volume 86, Page 74 of the Fort Bend  
23 County Deed Records (F.B.C.D.R.) and later partitioned in Clerk's  
24 File Number 2017121854 of the Official Public Records of Fort Bend  
25 County (O.P.R.F.B.C.); said 210.3-acre tract being more  
26 particularly described by metes and bounds as follows (all bearings  
27 are referenced to the Texas Coordinate System, NAD 83, 2011 Adj.,

1 South Central Zone):

2 Beginning at a 5/8-inch iron rod (bent) found for the east  
3 corner of said called 222.87-acre tract, the north corner of The  
4 Meadows on Koebler, a subdivision recorded in Slide Number 1230A of  
5 the Fort Bend County Plat Records (F.B.C.P.R.), same being on the  
6 southwest line of a called 117.374-acre tract of land recorded in  
7 Clerk's File Number 2009048080;

8 1. Thence, with the south line of said called 222.87-acre  
9 tract and the north line of said The Meadows on Koebler, South 42  
10 degrees 13 minutes 09 seconds West, a distance of 841.11 feet to a  
11 5/8-inch iron rod with cap stamped "COSTELLO INC" set on the  
12 northeasterly line of Koebler Road (60 feet wide easement), as  
13 recorded in Commissioners Court Meeting Minutes, dated April 28,  
14 1986 from which a 1/2-inch iron pipe found for the north corner of a  
15 called 100.5-acre tract of land recorded in Clerk's File Number  
16 2012117049 of the O.P.R.F.B.C. bears S42°13'09"W, 7.78';

17 Thence, with the northwesterly and northeasterly easement  
18 line of said Koebler Road, the following four (4) courses:

19 2. 98.97 feet along the arc of a curve to the left, said  
20 curve having a central angle of 46 degrees 28 minutes 52 seconds, a  
21 radius of 122.00 feet and a chord that bears South 64 degrees 59  
22 minutes 43 seconds West, a distance of 96.28 feet to a 5/8-inch iron  
23 rod with cap stamped "COSTELLO INC" set;

24 3. South 41 degrees 45 minutes 17 seconds West, a distance  
25 of 445.02 feet to a 5/8-inch iron rod with cap stamped "COSTELLO  
26 INC" set;

27 4. 127.94 feet along the arc of a curve to the right, said



1 curve having a central angle of 80 degrees 06 minutes 53 seconds, a  
2 radius of 91.50 feet and a chord that bears South 81 degrees 48  
3 minutes 43 seconds West, a distance of 117.77 feet to a 5/8-inch  
4 iron rod with cap stamped "COSTELLO INC" set;

5 5. North 58 degrees 07 minutes 50 seconds West, a distance  
6 of 5,475.47 feet to a 5/8-inch iron rod with cap stamped "COSTELLO  
7 INC" set at the easterly intersection of aforesaid Koeblen Road and  
8 the pending south right-of-way (R.O.W.) line of FM 2218, TxDOT  
9 Parcel 84, RCSJ 2093-01-028 dated February 2018;

10 6. Thence, with said south R.O.W. line of said FM 2218,  
11 North 18 degrees 08 minutes 33 seconds East, a distance of 512.74  
12 feet (called N18°08'39"W) to a TxDOT monument found;

13 7. Thence, continuing with said south R.O.W., 132.95 feet  
14 along the arc of a curve to the right, said curve having a central  
15 angle of 00 degrees 40 minutes 45 seconds, a radius of 11,215.00  
16 feet and a chord that bears North 18 degrees 28 minutes 56 seconds  
17 East, a distance of 132.94 feet to a 5/8-inch iron rod with cap  
18 stamped "COSTELLO INC" set the northwest corner of the herein  
19 described tract;

20 8. Thence, South 87 degrees 39 minutes 20 seconds East, a  
21 distance of 2,317.30 feet to a 1-inch iron pipe found;

22 9. Thence, North 41 degrees 01 minutes 22 seconds East, a  
23 distance of 329.07 feet a 3/4-inch iron pipe found on the northeast  
24 line of aforesaid called 222.87-acre tract and the southwest line  
25 of a called 105.672-acre tract of land recorded in Volume 2669, Page  
26 428 of the F.B.C.D.R.;

27 10. Thence, with the northeast line of said called

1 222.87-acre tract, South 48 degrees 50 minutes 23 seconds East, a  
2 distance of 122.46 feet to a 5/8-inch iron rod with cap stamped  
3 "COSTELLO INC" set;

4 11. Thence, through said called 222.87-acre tract, South 47  
5 degrees 30 minutes 57 seconds East, a distance of 1975.66 feet to a  
6 5/8-inch iron rod with cap stamped "COSTELLO INC" set;

7 12. Thence, continuing through said called 222.87-acre  
8 tract, North 50 degrees 13 minutes 33 seconds East, a distance of  
9 46.23 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC"  
10 set on the northeast line of said called 222.87-acre tract;

11 13. Thence, with the northeast line of said called  
12 222.87-acre tract, South 48 degrees 50 minutes 23 seconds East, a  
13 distance of 186.02' feet to a 1-inch iron pipe found for the south  
14 corner of said called 105.672-acre tract and the westerly corner of  
15 aforesaid called 117.374-acre tract;

16 14. Thence, with the common line of said called 222.87-acre  
17 tract and said called 117.374-acre tract, South 47 degrees 51  
18 minutes 59 seconds East, a distance of 1,695.75 feet to the Point of  
19 Beginning and containing 210.3-acres of land.

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

27 (b) The governor, one of the required recipients, has

1 submitted the notice and Act to the Texas Commission on  
2 Environmental Quality.

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

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

11 SECTION 4. (a) Section 8068.0306, Special District Local  
12 Laws Code, as added by Section 1 of this Act, takes effect only if  
13 this Act receives a two-thirds vote of all the members elected to  
14 each house.

15 (b) If this Act does not receive a two-thirds vote of all the  
16 members elected to each house, Subchapter C, Chapter 8068, Special  
17 District Local Laws Code, as added by Section 1 of this Act, is  
18 amended by adding Section 8068.0306 to read as follows:

19 Sec. 8068.0306. NO EMINENT DOMAIN POWER. The district may  
20 not exercise the power of eminent domain.

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

24 SECTION 5. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2019.