

By: Thompson of Brazoria

H.B. No. 4718

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation of the Brazoria County Municipal Utility  
3 District No. 77; granting a limited power of eminent domain;  
4 providing authority to issue bonds; providing authority to impose  
5 assessments, fees, and taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
8 Code, is amended by adding Chapter 8379 to read as follows:

9 CHAPTER 8379. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 77

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8379.0101. DEFINITIONS. In this chapter:

12 (1) "Board" means the district's board of directors.

13 (2) "Commission" means the Texas Commission on  
14 Environmental Quality.

15 (3) "Director" means a board member.

16 (4) "District" means the Brazoria County Municipal  
17 Utility District No. 77.

18 Sec. 8379.0102. NATURE OF DISTRICT. The district is a  
19 municipal utility district created under Section 59, Article XVI,  
20 Texas Constitution.

21 Sec. 8379.0103. CONFIRMATION AND DIRECTOR ELECTION  
22 REQUIRED. The temporary directors shall hold an election to  
23 confirm the creation of the district and to elect five permanent  
24 directors as provided by Section 49.102, Water Code.

1       Sec. 8379.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 8379.0103 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. 8379.0105. 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. 8379.0106. 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. 8379.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 8379.0202, directors  
6 serve staggered four-year terms.

7           Sec. 8379.0202. 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 8379.0103; 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 8379.0103 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 8379.0103; 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. 8379.0301. 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. 8379.0302. 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. 8379.0303. 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. 8379.0304. 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. 8379.0305. 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. 8379.0306. DIVISION OF DISTRICT. (a) The district may  
16 be divided into two or more new districts only if the district:

- 17               (1) has never issued any bonds; and  
18               (2) is not imposing ad valorem taxes.

19       (b) This chapter applies to any new district created by the  
20 division of the district, and a new district has all the powers and  
21 duties of the district.

22       (c) A new district created by the division of the district  
23 may not, at the time the new district is created, contain any land  
24 outside the area described by Section 2 of the Act enacting this  
25 chapter.

26       (d) The board, on its own motion or on receipt of a petition  
27 signed by the owner or owners of a majority of the assessed value of

1 the real property in the district, may adopt an order dividing the  
2 district.

3 (e) The board may adopt an order dividing the district  
4 before or after the date the board holds an election under Section  
5 8379.0103 to confirm the district's creation.

6 (f) An order dividing the district shall:

7 (1) name each new district;

8 (2) include the metes and bounds description of the  
9 territory of each new district;

10 (3) appoint temporary directors for each new district;

11 and

12 (4) provide for the division of assets and liabilities  
13 between or among the new districts.

14 (g) On or before the 30th day after the date of adoption of  
15 an order dividing the district, the district shall file the order  
16 with the commission and record the order in the real property  
17 records of each county in which the district is located.

18 (h) A new district created by the division of the district  
19 shall hold a confirmation and directors' election as required by  
20 Section 8379.0103.

21 (i) If the creation of the new district is confirmed, the  
22 new district shall provide the election date and results to the  
23 commission.

24 (j) Any new district created by the division of the district  
25 must hold an election as required by this chapter to obtain voter  
26 approval before the district may impose a maintenance tax or issue  
27 bonds payable wholly or partly from ad valorem taxes.

1       (k) Municipal consent to the creation of the district and to  
2 the inclusion of land in the district granted under Section  
3 8379.0104 acts as municipal consent to the creation of any new  
4 district created by the division of the district and to the  
5 inclusion of land in the new district.

6               SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

7       Sec. 8379.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
8 The district may issue, without an election, bonds and other  
9 obligations secured by:

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

11               (2) contract payments described by Section 8379.0403.

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

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

20       Sec. 8379.0402. OPERATION AND MAINTENANCE TAX. (a) If  
21 authorized at an election held under Section 8379.0401, the  
22 district may impose an operation and maintenance tax on taxable  
23 property in the district in accordance with Section 49.107, Water  
24 Code.

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

27       Sec. 8379.0403. CONTRACT TAXES. (a) In accordance with

1 Section 49.108, Water Code, the district may impose a tax other than  
2 an operation and maintenance tax and use the revenue derived from  
3 the tax to make payments under a contract after the provisions of  
4 the contract have been approved by a majority of the district voters  
5 voting at an election held for that purpose.

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

9 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

10 Sec. 8379.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
11 OBLIGATIONS. The district may issue bonds or other obligations  
12 payable wholly or partly from ad valorem taxes, impact fees,  
13 revenue, contract payments, grants, or other district money, or any  
14 combination of those sources, to pay for any authorized district  
15 purpose.

16 Sec. 8379.0502. TAXES FOR BONDS. At the time the district  
17 issues bonds payable wholly or partly from ad valorem taxes, the  
18 board shall provide for the annual imposition of a continuing  
19 direct ad valorem tax, without limit as to rate or amount, while all  
20 or part of the bonds are outstanding as required and in the manner  
21 provided by Sections 54.601 and 54.602, Water Code.

22 Sec. 8379.0503. BONDS FOR ROAD PROJECTS. At the time of  
23 issuance, the total principal amount of bonds or other obligations  
24 issued or incurred to finance road projects and payable from ad  
25 valorem taxes may not exceed one-fourth of the assessed value of the  
26 real property in the district.

27 SECTION 2. The Brazoria County Municipal Utility District



1 No. 77 initially includes all the territory contained in the  
2 following area:

3 BEING A 705.269 ACRE TRACT OF LAND OUT OF THE CHESTER GORBET  
4 SURVEY, ABSTRACT NO. 64, THE H.T. & B. RR., SECTION 5, ABSTRACT NO.  
5 235 AND THE H.T. & B. RR., SECTION 43, ABSTRACT 256, BRAZORIA  
6 COUNTY, TEXAS; SAID 705.269 ACRE TRACT OF LAND BEING OUT OF AND A  
7 PART OF A TRACT OF LAND CONVEYED TO AA SHARP INVESTMENTS, LTD., AS  
8 DESCRIBED IN DEED RECORDED UNDER COUNTY CLERK'S FILE NO. 2007068904  
9 OF THE OFFICIAL PUBLIC RECORDS OF BRAZORIA COUNTY, TEXAS, SAID  
10 705.269 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY  
11 METES AND BOUNDS IN FOUR TRACTS OF LAND AS FOLLOWS:

12 TRACT 1:

13 BEGINNING at the southern "cut back" corner of State Highway  
14 288 west right-of-way line and the north right-of-way line of  
15 County Road 60;

16 THENCE, South  $87^{\circ}06'10''$  West, 150.29 feet along the north line  
17 of said County Road 60 to an interior corner of the herein described  
18 tract;

19 THENCE, South  $02^{\circ}53'50''$  East, 60.00 feet to the centerline of  
20 said County Road 60 for a point of corner;

21 THENCE, in a westerly direction along the south line of the  
22 herein tract as follow:

23 THENCE, South  $87^{\circ}23'21''$  West, 3589.69 feet along the  
24 centerline of said County Road 60 to the centerline of County Road  
25 48 for a point for corner;

26 THENCE, South  $02^{\circ}30'30''$  East, 1045.03 feet along the  
27 centerline of said County Road 48 to an angle point for corner;

1           THENCE, South 87°23'00" West, 3786.31 feet to the Southwest  
2 corner of the herein described tract;

3           THENCE, in a northerly direction along the west line of the  
4 herein tract as follow:

5           THENCE, North 02°48'42" West, 1309.92 feet to an interior  
6 corner;

7           THENCE, South 87°04'08" West, 484.20 feet to an angle point  
8 for corner;

9           THENCE, North 03°21'02" West, 1884.72 feet to the Northwest  
10 corner of the herein described tract;

11          THENCE, in an easterly direction along the north line of the  
12 herein tract as follow:

13          THENCE, North 87°22'55" East, 2011.99 feet to an angle point  
14 for corner;

15          THENCE, South 02°37'05" East, 1078.95 feet to an interior  
16 corner;

17          THENCE, North 87°22'55" East, 2051.99 feet to the centerline  
18 of said County Road 48 for a point for corner;

19          THENCE, North 15°20'43" West, 1106.13 feet along the  
20 centerline of said County Road 48 to an angle point for corner;

21          THENCE, North 87°22'55" East, 5022.48 feet to the Northeast  
22 corner of the herein described tract and being in the west  
23 right-of-way line of said State Highway 288 to a point for corner;

24          THENCE, in a southeasterly direction along the west line of  
25 said State Highway 288 as follows:

26          THENCE, South 02°37'30" East, 313.81 feet to a point for  
27 corner;

1           THENCE, South 01°22'30" West, 548.62 feet to the beginning of  
2 a curve to the right;

3           THENCE, along the arc of said curve to the right, having a  
4 chord of South 24°37'30" West, 822.44 feet, a radius of 1041.74  
5 feet, and a central angle of 46°30'00", a distance of 845.45 feet to  
6 a point for corner;

7           THENCE, South 47°52'30" West, 220.75 feet to the beginning of  
8 a curve to the left;

9           THENCE, along the arc of said curve to the left, having a  
10 chord of South 25°48'15" West, 345.34 feet, a radius of 485.37 feet,  
11 and a central angle of 41°40'43", a distance of 353.07 feet to a "cut  
12 back" corner;

13           THENCE, South 43°48'16" West, 72.77 feet to the PLACE OF  
14 BEGINNING; containing 463.725 acres of land, more or less.

15           TRACT 2:

16           BEGINNING at the southeast corner of the herein described  
17 tract and being on the south line of said Chester Gorbet Survey and  
18 the west right-of-way line of State Highway 288;

19           THENCE, South 87°22'55" West, 331.99 feet along the south line  
20 of said Gorbet Survey to the Southwest corner of the herein  
21 described tract;

22           THENCE, North 02°37'05" West, 1465.62 feet along the west line  
23 of this tract to the Northwest corner of the herein described tract  
24 and being the beginning of a non-tangent curve to the right, said  
25 point being in the west line of said State Highway 288;

26           THENCE, in a southeasterly direction along the west line of  
27 said State Highway 288 as follow:

1           THENCE, along the arc of said curve to the right, having a  
2 chord of South 33°01'25" East, 272.09 feet, a radius of 1273.24  
3 feet, and a central angle of 12°16'03", a distance of 272.61 feet to  
4 a point for corner;

5           THENCE, North 63°06'36" East, 120.51 feet to the beginning of  
6 a non-tangent curve to the right;

7           THENCE, along the arc of said curve to the right, having a  
8 chord of South 13°57'24" East, 428.87 feet, a radius of 1091.35  
9 feet, and a central angle of 22°39'47", a distance of 431.68 feet to  
10 a point for corner;

11           THENCE, South 02°37'30" East, 859.99 feet to the PLACE OF  
12 BEGINNING; containing 9.672 acres of land, more or less.

13           TRACT 3:

14           BEGINNING at the northern "cut back" corner of State Highway  
15 288 east right-of-way line and the south right-of-way line of  
16 County Road 60;

17           THENCE, North 87°06'10" East, 217.49 feet along the south  
18 right-of-way line of said County Road 60 to the Northeast corner of  
19 the herein described tract;

20           THENCE, South 02°37'05" East, 2087.18 feet along the east line  
21 to the Southeast corner of the herein described tract;

22           THENCE, South 87°22'55" West, 1019.22 feet along the south  
23 line to the Southwest corner of the herein described tract; said  
24 point being in the east right-of-way line of said State Highway 288;

25           THENCE, in a northerly direction along the east line of said  
26 State Highway 288 as follow:

27           THENCE, North 02°37'35" West, 313.22 feet to an angle point

1 for corner;

2           THENCE, North 01°22'30" East, 548.47 feet to the beginning of  
3 a curve to the right;

4           THENCE, along the arc of said curve to the right, having a  
5 chord of North 24°37'30" East, 822.72, a radius of 1041.74 feet, and  
6 a central angle of 46°31'00", a distance of 845.76 feet to a point  
7 for corner;

8           THENCE, North 47°52'30" East, 220.52 feet to the beginning of  
9 a curve to the left;

10           THENCE, along the arc of said curve to the left, having a  
11 chord of North 25°45'18" East, 345.34, a radius of 458.37 feet, and a  
12 central angle of 44°15'34", a distance of 354.08 feet to a point for  
13 corner;

14           THENCE, North 43°48'11" East, 72.77 feet to the PLACE OF  
15 BEGINNING; containing 38.512 acres of land, more or less.

16           TRACT 4:

17           BEGINNING at the southern "cut back" corner of State Highway  
18 288 east right-of-way line and the north right-of-way line of  
19 County Road 60;

20           THENCE, in a northeasterly direction along the east line of  
21 said State Highway 288 as follow:

22           THENCE, North 49°19'36" West, 78.78 feet to the beginning of a  
23 non-tangent curve to the left;

24           THENCE, along the arc of said curve to the left, having a  
25 chord of North 31°22'42" West, 339.80, a radius of 458.37 feet, and a  
26 central angle of 43°30'46", a distance of 348.11 feet to a point for  
27 corner;

1           THENCE, North 53°07'30" West, 54.27 feet to the beginning of a  
2 curve to the right;

3           THENCE, along the arc of said curve to the right, having a  
4 chord of North 32°52'30" West, 881.38, a radius of 1273.24 feet, and  
5 a central angle of 40°30'00", a distance of 900.00 feet to a point  
6 for corner;

7           THENCE, North 12°37'30" West, 571.47 feet to a point for  
8 corner;

9           THENCE, North 02°37'30" West, 364.45 feet to the Northwest  
10 corner of the herein described tract;

11          THENCE, in an easterly direction along the north line of the  
12 herein tract as follow:

13          THENCE, North 87°22'55" West, 1025.00 feet to an interior  
14 corner;

15          THENCE, North 02°37'05" West, 438.06 feet to an angle point  
16 for corner;

17          THENCE, North 87°22'55" East, 534.76 feet to an angle point  
18 for corner;

19          THENCE, South 02°37'05" East, 23.06 feet to an interior  
20 corner;

21          THENCE, North 87°22'55" East, 1853.42 feet to an exterior  
22 corner;

23          THENCE, South 02°37'05" East, 893.97 feet to an interior  
24 corner;

25          THENCE, North 87°07'26" East, 2710.71 feet to an exterior  
26 corner;

27          THENCE, South 02°52'34" East, 1692.20 feet to the Southeast

1 corner of the herein described tract and being in the centerline of  
2 said County Road 60 for a point for corner;

3       THENCE, in a westerly direction along the south line of the  
4 herein tract as follow:

5       THENCE, South 87°10'14" West, 923.16 feet along the  
6 centerline of said County Road 60 to an angle point for corner;

7       THENCE, North 02°52'34" West, 947.37 feet along the  
8 centerline of County Road 65 to an angle point for corner;

9       THENCE, South 87°22'55" West, 4180.39 feet to an interior  
10 corner;

11       THENCE, South 02°37'05" East, 858.91 feet to the north line of  
12 said County Road 60;

13       THENCE, South 87°06'10" West, 217.50 feet to the POINT OF  
14 BEGINNING and containing 193.360 acres of land; more or less, for a  
15 TOTAL ACREAGE of 705.269 ACRES.

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

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

26       (c) The Texas Commission on Environmental Quality has filed  
27 its recommendations relating to this Act with the governor, the

1 lieutenant governor, and the speaker of the house of  
2 representatives within the required time.

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

7 SECTION 4. (a) If this Act does not receive a two-thirds  
8 vote of all the members elected to each house, Subchapter C, Chapter  
9 8379, Special District Local Laws Code, as added by Section 1 of  
10 this Act, is amended by adding Section 8379.0307 to read as follows:

11 Sec. 8379.0307. NO EMINENT DOMAIN POWER. The district may  
12 not exercise the power of eminent domain.

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

16 SECTION 5. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2019.