

1-1 By: Taylor S.B. No. 1038  
1-2 (In the Senate - Filed February 22, 2019; March 7, 2019,  
1-3 read first time and referred to Committee on Intergovernmental  
1-4 Relations; April 15, 2019, reported favorably by the following  
1-5 vote: Yeas 7, Nays 0; April 15, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Lucio	X		
1-9	Schwertner	X		
1-10	Alvarado	X		
1-11	Campbell	X		
1-12	Fallon	X		
1-13	Menéndez	X		
1-14	Nichols	X		

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to the creation of the Brazoria-Fort Bend Counties  
1-18 Municipal Utility District No. 3; granting a limited power of  
1-19 eminent domain; providing authority to issue bonds; providing  
1-20 authority to impose assessments, fees, and taxes.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
1-23 Code, is amended by adding Chapter 8075 to read as follows:

1-24 CHAPTER 8075. BRAZORIA-FORT BEND COUNTIES MUNICIPAL UTILITY

1-25 DISTRICT NO. 3

1-26 SUBCHAPTER A. GENERAL PROVISIONS

1-27 Sec. 8075.0101. DEFINITIONS. In this chapter:

1-28 (1) "Board" means the district's board of directors.

1-29 (2) "Commission" means the Texas Commission on  
1-30 Environmental Quality.

1-31 (3) "Director" means a board member.

1-32 (4) "District" means the Brazoria-Fort Bend Counties  
1-33 Municipal Utility District No. 3.

1-34 Sec. 8075.0102. NATURE OF DISTRICT. The district is a  
1-35 municipal utility district created under Section 59, Article XVI,  
1-36 Texas Constitution.

1-37 Sec. 8075.0103. CONFIRMATION AND DIRECTOR ELECTION  
1-38 REQUIRED. The temporary directors shall hold an election to  
1-39 confirm the creation of the district and to elect five permanent  
1-40 directors as provided by Section 49.102, Water Code.

1-41 Sec. 8075.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
1-42 temporary directors may not hold an election under Section  
1-43 8075.0103 until each municipality in whose corporate limits or  
1-44 extraterritorial jurisdiction the district is located has  
1-45 consented by ordinance or resolution to the creation of the  
1-46 district and to the inclusion of land in the district.

1-47 Sec. 8075.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-48 (a) The district is created to serve a public purpose and benefit.

1-49 (b) The district is created to accomplish the purposes of:

1-50 (1) a municipal utility district as provided by  
1-51 general law and Section 59, Article XVI, Texas Constitution; and

1-52 (2) Section 52, Article III, Texas Constitution, that  
1-53 relate to the construction, acquisition, improvement, operation,  
1-54 or maintenance of macadamized, graveled, or paved roads, or  
1-55 improvements, including storm drainage, in aid of those roads.

1-56 Sec. 8075.0106. INITIAL DISTRICT TERRITORY. (a) The  
1-57 district is initially composed of the territory described by  
1-58 Section 2 of the Act enacting this chapter.

1-59 (b) The boundaries and field notes contained in Section 2 of  
1-60 the Act enacting this chapter form a closure. A mistake made in the  
1-61 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. 8075.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8075.0202, directors serve staggered four-year terms.

Sec. 8075.0202. 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 8075.0103; or
- (2) September 1, 2023.

(c) If permanent directors have not been elected under Section 8075.0103 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 8075.0103; 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. 8075.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8075.0302. 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. 8075.0303. 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. 8075.0304. 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. 8075.0305. 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. 8075.0401. 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 8075.0403.
- (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. 8075.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8075.0401, 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. 8075.0403. 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. 8075.0501. 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. 8075.0502. 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. 8075.0503. 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 Brazoria-Fort Bend Counties Municipal Utility District No. 3 initially includes all the territory contained in the following area:

Being a tract containing 362.666 acres of land, located in the William Hall Survey, Abstract 31, in Fort Bend County, Texas and Abstract 713 in Brazoria County, Texas; Said 362.666 acre tract being a call 363.942 acre tract recorded in the name of J.H.Caldwell, et al in Volume 796, Page 565 of the Official Records of Fort Bend County (O.R.F.B.C.) and being Lots 1, 2, 3, 4, 7, 11, 12 and a portion of Lot 6, T.W. & J.H.B. House Subdivision, a subdivision recorded in Volume 7, Page 301 of the Fort Bend County Deed Records (F.B.C.D.R.); Said 362.666 acre tract being more particularly described by metes and bounds as follows (bearings being based on the Texas Coordinate System, South Central Zone, NAD 83, as

4-1 derived from GPS Observations):  
 4-2 Beginning at a 2-inch iron pipe found at the  
 4-3 northeasterly corner of a call 1.284 acre tract  
 4-4 recorded in the name of Fort Bend County Municipal  
 4-5 Utility District Number 141 in File Number 2018043550  
 4-6 of the O.R.F.B.C., the southeasterly corner of a call  
 4-7 48.6 acre tract recorded in the name of Emma Ruth Bly  
 4-8 in File Number 2004149678 of the O.R.F.B.C., the  
 4-9 southerly southwest corner of a call 484.4229 acre  
 4-10 tract recorded in the name of Hannover Estates, LTD. in  
 4-11 File Number 2002140473 of the O.R.F.B.C. and being the  
 4-12 southeasterly corner of the David Fitzgerald League,  
 4-13 Abstract 25, the southwesterly corner of the I.&G.N.  
 4-14 R.R. Co. Survey, Abstract 352 and being on the  
 4-15 northerly line of the William Hall Survey, Abstract  
 4-16 31, from which a 3/4-inch iron rod found at the  
 4-17 northeasterly corner of Reserve "A", Fort Bend ISD  
 4-18 Ferndell Henry Center for Learning, a subdivision  
 4-19 recorded in Plat Number 20110173 of the Fort Bend  
 4-20 County Plat Records (F.B.C.P.R.), bears South 86  
 4-21 degrees 55 minutes 29 seconds West, a distance of  
 4-22 175.06 feet;  
 4-23 Thence, with the northerly line of said William Hall  
 4-24 Survey and with the southerly line of aforesaid  
 4-25 484.4229 acre tract and a call 17.478 acre tract  
 4-26 recorded in the name of JNC Development, Inc. in File  
 4-27 Number 2017115756 of the O.R.F.B.C., North 86 degrees  
 4-28 55 minutes 29 seconds East, at a distance of  
 4-29 1755.20 pass a found 5/8-inch iron rod with "Miller"  
 4-30 cap, at a distance of 2340.21 feet pass a found  
 4-31 5/8-inch iron rod with "Miller" cap, at a distance of  
 4-32 3151.64 feet pass a found 5/8-inch iron rod with  
 4-33 "Miller" cap, at a distance of 3753.58 feet pass a  
 4-34 found 5/8-inch iron rod with "Miller" cap, at a  
 4-35 distance of 4801.72 feet pass the Fort Bend/Brazoria  
 4-36 County line, in all, a distance of 5137.14 feet to a  
 4-37 5/8-inch iron rod set at the northeast corner of  
 4-38 aforesaid William Hall Survey, the southeasterly  
 4-39 corner of aforesaid 484.4229 acre tract and being the  
 4-40 northeasterly corner of aforesaid Lot 1;  
 4-41 Thence, with the easterly line of said William Hall  
 4-42 Survey, South 03 degrees 04 minutes 56 seconds East, a  
 4-43 distance of 1591.83 feet to a 2-inch PVC stand pipe  
 4-44 found at the southeasterly corner of aforesaid Lot 1  
 4-45 and the northeasterly corner of Lot 9, aforesaid T.W. &  
 4-46 J.H.B. House Subdivision;  
 4-47 Thence, with the southerly line of aforesaid Lots 1 and  
 4-48 2, South 86 degrees 55 minutes 29 seconds West, at a  
 4-49 distance of 775.90 feet pass the aforesaid Fort  
 4-50 Bend/Brazoria County line, in all, a distance of  
 4-51 2735.60 feet to a 2-inch PVC stand pipe found at the  
 4-52 common corner of aforesaid Lots 2, 3, 7 and Lot 8,  
 4-53 aforesaid T.W. & J.H.B. House Subdivision;  
 4-54 Thence, with the easterly line of said Lot 7, South 03  
 4-55 degrees 04 minutes 56 seconds East, a distance of  
 4-56 1591.23 feet to a 2-inch PVC stand pipe found at the  
 4-57 common corner of aforesaid Lots 7, 8, 11 and 12;  
 4-58 Thence, with the common line between Lots 8 and 11,  
 4-59 North 86 degrees 55 minutes 29 seconds East, a distance  
 4-60 of 1367.28 feet to a 2-inch PVC stand pipe found at the  
 4-61 common corner of aforesaid Lots 8, 9, 11 and Lot 10,  
 4-62 aforesaid T.W. & J.H.B. House Subdivision;  
 4-63 Thence, with the common line between aforesaid Lots 10  
 4-64 and 11, South 03 degrees 04 minutes 56 seconds East, a  
 4-65 distance of 1592.64 feet to a 3/4-inch iron pipe found  
 4-66 at the common corner of aforesaid Lots 10 and 11 and  
 4-67 Lots 20 and 21, aforesaid T.W. & J.H.B. House  
 4-68 Subdivision;  
 4-69 Thence, with the southerly line of aforesaid Lot 11,



South 86 degrees 55 minutes 29 seconds West, a distance of 1367.22 feet to a 5/8-inch iron rod set at the common corner of aforesaid Lots 11, 12, 20 and Lot 19, aforesaid T.W. & J.H.B. House Subdivision and being the easterly northeast corner of a call 91.100 acre tract recorded in the name of Forestar (USA) Real Estate Group, Inc. in File Number 2017121652 of the O.R.F.B.C.;

Thence, with the northerly and easterly lines of said 91.100 acre tract, the following four (4) courses:

1) South 86 degrees 42 minutes 23 seconds West, at a distance of 29.30 feet pass a found 1/2-inch iron rod, in all, a distance of 1368.62 feet to a found 5/8-inch iron rod;

2) North 03 degrees 03 minutes 31 seconds West, a distance of 1594.92 feet to a found 5/8-inch iron rod;

3) South 86 degrees 57 minutes 25 seconds West, a distance of 675.85 feet to a 5/8-inch iron rod set;

4) South 86 degrees 48 minutes 40 seconds West, a distance of 3.88 feet to a 5/8-inch iron rod found at the southeasterly corner of a call 162.2524 acre tract recorded in the name of Hannover Estates, LTD. in File Number 2004018462 of the O.R.F.B.C.;

Thence, with the easterly lines of said 162.2524 acre tract, the following three (3) courses:

1) North 03 degrees 04 minutes 56 seconds West, a distance of 1593.59 feet to a 5/8-inch iron rod set;

2) South 86 degrees 57 minutes 10 seconds West, a distance of 353.80 feet to a 5/8-inch iron with cap found;

3) North 03 degrees 05 minutes 12 seconds West, at a distance of 1272.29 feet pass the southeasterly corner of aforesaid 1.284 acre tract, in all, a distance of 1591.86 feet to the POINT OF BEGINNING and containing 362.666 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 8075, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8075.0306 to read as follows:  
Sec. 8075.0306. 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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