

By: Kolkhorst

S.B. No. 2490

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.

1 Sec. 8070.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8070.0103 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. 8070.0105. 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. 8070.0106. 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. 8070.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

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

7 Sec. 8070.0202. 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 8070.0103; 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 8070.0103 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 8070.0103; 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. 8070.0301. 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. 8070.0302. 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. 8070.0303. 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. 8070.0304. 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. 8070.0305. 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 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 8070.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
17 The district may issue, without an election, bonds and other
18 obligations secured by:

- 19 (1) revenue other than ad valorem taxes; or
20 (2) contract payments described by Section 8070.0403.

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

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8070.0402. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8070.0401, the
4 district may impose an operation and maintenance tax on taxable
5 property in the district in accordance with Section 49.107, Water
6 Code.

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

9 Sec. 8070.0403. CONTRACT TAXES. (a) In accordance with
10 Section 49.108, Water Code, the district may impose a tax other than
11 an operation and maintenance tax and use the revenue derived from
12 the tax to make payments under a contract after the provisions of
13 the contract have been approved by a majority of the district voters
14 voting at an election held for that purpose.

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

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8070.0501. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 8070.0502. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8070.0503. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Fort Bend County Municipal Utility District
10 No. 231 initially includes all the territory contained in the
11 following area:

12 Being a 309.21 acre tract of land located in the H. & T. C. R.R. Co.
13 Survey, Section 85, Abstract No. 247 and H. & T. C. R.R. Co. Survey,
14 Section 90, Abstract No. 507 in Fort Bend County, Texas; said
15 309.21 acre tract being all of the remainder of a called 100-acre
16 tract of land conveyed to Henry Fuchs in Clerk's File Number
17 2015129371 of the Official Public Records of Fort Bend County
18 (O.P.R.F.B.C.), all of the remainder of a called 209-acre tract of
19 land conveyed to Carl F. Fischer and wife, Diane Fischer, and Donald
20 H. Fischer and wife, Sherry Fischer in Volume 875, Page 55 of the
21 Fort Bend County Deed Records (F.B.C.D.R.), and a portion of
22 Wernecke Road (60-feet wide); said 309.21 acre tract being more
23 particularly described by metes and bounds as follows (all bearings
24 are referenced to the Texas Coordinate System, North American Datum
25 1983 (NAD 83), South Central Zone);

26 Beginning at an iron stake found at the most southerly corner of
27 said 209-acre tract and the most westerly corner of a called 50.0-

1 acre tract of land recorded in the name of M.T. Cyplik in Clerk's
2 File No. 9769464 of the O.P.R.F.B.C. and being on the northeasterly
3 right-of-way line of Meyer Road (40.00 feet wide);

4 1. Thence, with the southwesterly line of said 209-acre
5 tract and said northeasterly right-of-way line of Meyer Road, North
6 48 degrees 09 minutes 38 seconds West, a distance of 1,741.90 feet
7 to a 5/8-inch iron rod with cap stamped "COSTELLO INC" found at the
8 most westerly corner of this 309.21-acre tract, being on the
9 southeasterly right-of-way line of Wernecke Road (60.00 feet wide);

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

14 3. Thence, North 47 degrees 53 minutes 47 seconds West, at
15 30.00-feet pass the south corner of aforesaid 100-acre tract and
16 the east corner of a called 61.09-acre tract recorded in Clerk's
17 File Number 2006081947 of the O.P.R.F.B.C. and being the centerline
18 of said Wernecke Road, in all a total distance of 1,700.74 feet to
19 an axel found for the west corner of said called 100-acre tract and
20 the south corner of a called 108.1-acre tract of land recorded in
21 Clerk's File Number 2014019607 of the O.P.R.F.B.C.;

22 4. Thence, with the common line of said called 100-acre
23 tract and said called 108.1-acre tract, North 41 degrees 49 minutes
24 16 seconds East, a distance of 2,571.79 feet to a 1-1/2-inch iron
25 pipe found on the southwesterly right-of-way line of FM 360
26 (Beasley-Needville Road, 80.00 feet wide per TxDOT right-of-way map
27 of FM 360, CSJ No. 527-6-6, dated August 19, 1968);

1 5. Thence, with said southwesterly right-of-way line of FM
2 360, South 47 degrees 57 minutes 06 seconds East, a distance of
3 3,447.86 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC"
4 found on the southeasterly line of said 209-acre tract, being the
5 most northerly corner of a called 49.9822 acre tract of land
6 recorded in the name of Jose A. Tejada in C.F. No. 2005115202 of the
7 O.P.R.F.B.C., from which a found eye-bolt bears South 41 degrees 53
8 minutes 44 seconds West, a distance of 0.71 feet;

9 6. Thence, with said southwesterly line of the 209-acre
10 tract, the northeasterly line of said 49.9822-acre tract, and the
11 northeasterly line of aforesaid 50.0-acre tract, South 41 degrees
12 53 minutes 44 seconds West, a distance of 5,210.82 feet to the Point
13 of Beginning and containing 309.21 acres of land.

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

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

24 (c) The Texas Commission on Environmental Quality has filed
25 its recommendations relating to this Act with the governor, the
26 lieutenant governor, and the speaker of the house of
27 representatives within the required time.

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

5 SECTION 4. (a) If this Act does not receive a two-thirds
6 vote of all the members elected to each house, Subchapter C, Chapter
7 8070, Special District Local Laws Code, as added by Section 1 of
8 this Act, is amended by adding Section 8070.0306 to read as follows:

9 Sec. 8070.0306. NO EMINENT DOMAIN POWER. The district may
10 not exercise the power of eminent domain.

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

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