

By: Kolkhorst

S.B. No. 2495

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of the Fort Bend County Municipal Utility
3 District No. 238; 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 8072 to read as follows:

9 CHAPTER 8072. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 238

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8072.0101. 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 Fort Bend County Municipal
17 Utility District No. 238.

18 Sec. 8072.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 8072.0103. 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. 8072.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8072.0103 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. 8072.0105. 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. 8072.0106. 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. 8072.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8072.0202, directors
6 serve staggered four-year terms.

7 Sec. 8072.0202. 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 8072.0103; 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 8072.0103 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 8072.0103; 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. 8072.0301. 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. 8072.0302. 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. 8072.0303. 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. 8072.0304. 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. 8072.0305. 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. 8072.0306. DIVISION OF DISTRICT. (a) The district may
16 be divided into two or more new districts only if the district:

17 (1) has no outstanding bonded debt; 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) Any 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 8072.0103 to confirm the creation of the district.

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) Any new district created by the division of the district
19 shall hold a confirmation and directors' election as required by
20 Section 8072.0103.

21 (i) Municipal consent to the creation of the district and to
22 the inclusion of land in the district granted under Section
23 8072.0104 acts as municipal consent to the creation of any new
24 district created by the division of the district and to the
25 inclusion of land in the new district.

26 (j) Any new district created by the division of the district
27 must hold an election as required by this chapter to obtain voter

1 approval before the district may impose a maintenance tax or issue
2 bonds payable wholly or partly from ad valorem taxes.

3 (k) If the creation of the new district is confirmed, the
4 new district shall provide the election date and results to the
5 commission.

6 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

7 Sec. 8072.0401. 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 8072.0403.

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. 8072.0402. OPERATION AND MAINTENANCE TAX. (a) If

21 authorized at an election held under Section 8072.0401, 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. 8072.0403. 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. 8072.0501. 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. 8072.0502. 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. 8072.0503. 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 Fort Bend County Municipal Utility District

1 No. 238 initially includes all the territory contained in the
2 following area:

3 Tract 1:

4 A Field Note Description of 465 Acres of Land, more or less,
5 being in the B.B.B. & C. Railroad Company Survey, Abstract No. 134;
6 Yandell Ferris Survey, Abstract No. 372; Griffin Wilgus Survey,
7 Abstract No. 381 and Griffin Wilgus Survey, Abstract No. 382; Fort
8 Bend County, Texas.

9 Beginning at the Southeast corner of said Yandell Ferris
10 Survey, Abstract No. 372; said corner being in the North line of the
11 Yandell Ferris Survey Abstract No. 374 and being the Southwest
12 corner of the B.B.B. & C. Railroad Company Survey, Abstract No. 134
13 and being at the intersection of Robinowitz No. 1 Road and Randon
14 Dyer Road; said corner marking the Southerly Southeast corner of
15 and place of beginning of this tract;

16 THENCE, South 84deg. West, 3799 feet, more or less, along the
17 South line of said Yandell Ferris Survey, Abstract No. 372 and
18 North line of said Yandell Ferris Survey, Abstract No. 374 to a
19 point in the City of Rosenberg Extra-Territorial Jurisdiction Line
20 and marking the Southerly Southwest corner of this tract;

21 THENCE, North 00deg.30' East, 1424 feet, more or less, along
22 said City of Rosenberg Extra-Territorial Jurisdiction Line to a
23 point for corner on the City of Rosenberg Extra-Territorial
24 Jurisdiction 5280 foot Radius Line for corner;

25 THENCE, North 57deg. West (Chord Bearing), 1156 feet, more or
26 less, along said City of Rosenberg Extra-Territorial Jurisdiction
27 5280 foot Radius curve to the right to a point in the Westerly line

1 of said Yandell Ferris Survey, Abstract No. 372 and East line of the
2 Yandell Ferris Survey, Abstract No. 373 for the Northerly
3 Southwest corner of this tract;

4 THENCE, North 00deg.30' West, 1160 feet, more or less, along
5 said West line of the said Yandell Ferris Survey, Abstract No. 372
6 and East line of said Yandell Ferris Survey, Abstract No. 373 and
7 also in the East Line of the B.B.B. & C. Railroad Company Survey
8 No. 21, Abstract No. 136 to the Southwest corner of the said
9 Griffin Wilgus Survey, Abstract No. 381 and marking the Westerly
10 Northwest corner for this tract;

11 THENCE, South 89deg. East, 2047 feet, more or less, along a
12 North line of said Yandell Ferris Survey, Abstract No. 372 and
13 South line of said Griffin Wilgus Survey, Abstract No. 381 to a
14 point marking the Southwest corner of the Ivy Moore Morrison Heirs,
15 Ltd. call 17.878 Acre Tract and a re-entrant corner of this tract;

16 THENCE, North, 2325.5 feet, more or less, along the West line
17 of said Ivy Moore Morrison Heirs, Ltd. 17.878 Acre Tract to a point
18 in the City of Rosenberg Annex #58-116.91 Acres dated 07/08/1997
19 marking the Northerly Northwest corner for this tract;

20 THENCE, South 71deg. East, 1536.9 feet, more or less, along
21 the City of Rosenberg City Limits Line to an angle point;

22 THENCE, Continuing South 74deg. East. 1251 feet, more or
23 less, along said City of Rosenberg City Limits Line to a point in
24 the East line of said Griffin Wilgus Survey, Abstract No. 382 and
25 the center of said Randon Dyer Road marking the Northerly Northeast
26 corner for this tract;

27 THENCE, South, 740 feet, more or less, along said Griffin

1 Wilgus Survey, Abstract No. 382 and the center of said Randon Dyer
2 Road to a point for corner;

3 THENCE, East, 1407 feet, more or less, along the North line of
4 said B.B.B. & C. Railroad Company Survey, Abstract 134 and along the
5 North line of the Wade McNeill Exempt Unitrust 97 Acre Tract, more
6 or less, (FBC 1999005774) to a point in said City of Rosenberg City
7 Limits Line (Annex #54-186.69 Acres 03/12/1997) marking the
8 Easterly Northeast corner of this tract;

9 THENCE, South, 1889 feet, more or less, along said City of
10 Rosenberg City Limits Line to the Southeast corner of this tract
11 being in the South line of said Wade McNeill Unitrust Tract and the
12 North line of the Robert Cortez, Jr. Tracts to a point marking the
13 Easterly Southeast corner of this tract;

14 THENCE, West, 1364 feet, more or less, along said South line
15 of said Wade McNeill Unitrust Tract and the North line of said
16 Robert Cortez, Jr. Tracts to a point in said Randon Dyer Road
17 marking a re-entrant corner for this tract;

18 THENCE, South, 1632 feet, more or less, along the center of
19 said Randon Dyer Road and along the East line of said Yandell Ferris
20 Survey, Abstract 372 and West line of said B.B.B. & C. Railroad
21 Company Survey, Abstract No. 134 to the place of beginning and
22 containing 465 Acres of Land, more or less.

23 Tract 2:

24 A Field Note Description of 240 Acres of Land, more or less,
25 in the Yandell Ferris Survey, Abstract No. 374, Fort Bend County,
26 Texas.

27 Beginning at a point in the North line of the G.H. & S.A.

1 Railroad at its intersection with the West line of said Yandell
2 Ferris Survey, Abstract No. 374 and East line of the B.B.B. & C.
3 Railroad Company Survey No. 23, Abstract No. 137 and marking the
4 Southwest corner of and place of beginning of this tract;

5 THENCE, North 06deg.30' West, 3960 feet, more or less, along
6 the East line of said B.B.B. & C. Railroad Company Survey No. 23,
7 Abstract No. 137 in the West line of said Yandell Ferris Survey,
8 Abstract No. 374 to the Southwest corner of the George F. Bergen
9 Tract and Northwest corner for this tract;

10 THENCE, North 83deg.30' East, 2640 feet, more or less, along
11 the South line of the George F. Bergen and Michael Wayne Bergen
12 total 80 Acre Tract (see Volume 117, Page 511; Deed Records) to a
13 point marking the Northeast corner for this tract;

14 THENCE, South 06deg.30' East, 3960 feet, more or less, to a
15 point marking the Southeast corner for this tract;

16 THENCE, South 83deg.30' West, 2640 feet, more or less, along
17 the North right-of-way line of said G.H. & S.A. Railroad to the
18 place of beginning and containing 240 Acres of Land, more or less.

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

26 (b) The governor, one of the required recipients, has
27 submitted the notice and Act to the Texas Commission on

1 Environmental Quality.

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

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

10 SECTION 4. (a) If this Act does not receive a two-thirds
11 vote of all the members elected to each house, Subchapter C, Chapter
12 8072, Special District Local Laws Code, as added by Section 1 of
13 this Act, is amended by adding Section 8072.0307 to read as follows:

14 Sec. 8072.0307. NO EMINENT DOMAIN POWER. The district may
15 not exercise the power of eminent domain.

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

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