

By: Kolkhorst

S.B. No. 2496

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 229; 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 8062 to read as follows:

CHAPTER 8062. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 229

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8062.0101. 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. 229.

Sec. 8062.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8062.0103. 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. 8062.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8062.0103 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. 8062.0105. 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. 8062.0106. 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. 8062.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8062.0202, directors
6 serve staggered four-year terms.

7 Sec. 8062.0202. 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 8062.0103; 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 8062.0103 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 8062.0103; 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. 8062.0301. 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. 8062.0302. 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. 8062.0303. 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. 8062.0304. 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. 8062.0305. 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. 8062.0401. 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 8062.0403.

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. 8062.0402. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8062.0401, 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. 8062.0403. 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. 8062.0501. 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. 8062.0502. 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. 8062.0503. 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. 229 initially includes all the territory contained in the
11 following area:

12 Being a 437.6585 acre tract of land located in the John Foster
13 2-1/2 League, A-26, Fort Bend County, Texas; said 437.6585 acre
14 tract being all of a called 200.00-acre tract of land (Tract I), the
15 remainder of a called 250.000-acre tract of land (Tract II) both
16 conveyed to Houston Nursery LLC in Clerk's File Number 2011031940
17 of the Official Records of Fort Bend County (O.R.F.B.C.) and a
18 portion of FM 359 (80-foot wide) recorded in Volume 243, Page 137 of
19 the Fort Bend County Deed Records (F.B.C.D.R.); said 437.6585 acre
20 tract being more particularly described by metes and bounds as
21 follows (all bearings are referenced to the south line of said
22 200.00-acre tract):

23 Beginning at the southeast corner of said 200.00-acre tract
24 and the northeast corner of a call 137.0556-acre tract of land
25 recorded in Clerk's File number 9681280 of the O.R.F.B.C., same
26 being on the west right-of-way (R.O.W.) line of said FM 359;

27 1. Thence, with the common line of said 200.00-acre tract

1 and said 137.0556-acre tract, South 89 degrees 44 minutes 42
2 seconds West, a distance of 2,600.24 feet to the southwest corner of
3 said 200.00-acre tract and the northwest corner of said
4 137.0556-acre tract, same being on the east line of a call
5 339.60-acre tract of land recorded in Clerk's File Number
6 2017112484 of the O.R.F.B.C.;

7 2. Thence, with the common line of said 200.00-acre tract
8 and said 339.60-acre tract, North 00 degrees 00 minutes 00 seconds
9 East, a distance of 3,392.41 feet to the northwest corner of said
10 200.00-acre tract;

11 3. Thence, with the north line of said 200.00-acre tract,
12 South 89 degrees 53 minutes 50 seconds East, a distance of 397.00
13 feet to a westerly line of a call 4.06-acre R.O.W. dedication (Tract
14 No. 1, FM 359) recorded in Volume 243, Page 261 of the F.B.C.D.R.;

15 4. Thence, with the common line of said 200.00-acre tract
16 and said FM 359, South 58 degrees 40 minutes 40 seconds East, a
17 distance of 15.40 feet;

18 5. Thence, continuing with said common line, South 89
19 degrees 56 minutes 07 seconds East, a distance of 1,698.40 feet;

20 6. Thence, crossing said FM 359, South 89 degrees 55 minutes
21 34 seconds East, a distance of 556.54 feet the northwest corner of
22 aforesaid 250.00-acre tract, same being on the south R.O.W. line of
23 Gaston Fulshear Road (called 80-foot wide) recorded in Volume 62,
24 Page 611 and Volume 458, Page 49 of the F.B.C.D.R.;

25 7. Thence, with the common line of said 250.00-acre tract
26 and said Gaston Fulshear Road, North 89 degrees 38 minutes 55
27 seconds East, a distance of 3,347.28 feet to the northwest corner of

1 a call 3.249-acre tract of land recorded in Clerk's File Number
2 2007099737 of the O.R.F.B.C.;

3 8. Thence, with the west line of said 3.249-acre tract,
4 South 00 degrees 00 minutes 43 seconds East, a distance of 391.50
5 feet;

6 9. Thence, with the south line of said 3.247-acre tract,
7 North 89 degrees 38 minutes 55 seconds East, a distance of 361.50
8 feet to the west line of a call 6.347-acre tract of land recorded in
9 Clerk's File Number 2005058326 of the O.R.F.B.C.;

10 10. Thence, with the west line of said 6.347-acre tract,
11 South 00 degrees 00 minutes 43 seconds East, a distance of 2,373.30
12 feet to the southwest corner of said 6.347-acre tract, same being
13 the south line of aforesaid 250.00-acre tract and the north line of
14 a call 100.000-acre tract of land recorded in Clerk's File Number
15 2005058326 of the O.R.F.B.C.;

16 11. Thence, with the south line of said 250.00-acre tract,
17 the north line of said 100.000-acre tract, and the north line of a
18 call 8.000-acre tract recorded in Clerk's File Number 2013108809 of
19 the O.R.F.B.C., South 89 degrees 44 minutes 22 seconds West, at
20 3,696.78 feet pass the southwest corner of said 250.00-acre tract
21 and the northwest corner of said 100.00 acre tract, same being on
22 the east R.O.W. line of aforesaid FM 359, continuing in all a total
23 distance of 3776.66 feet to the east line of aforesaid 200.00-acre
24 tract, same being the west R.O.W. line of said FM 359;

25 12. Thence, with the common line of said 200.00-acre tract
26 and said FM 359, South 00 degrees 13 minutes 50 seconds East, a
27 distance of 610.26 feet to the Point of Beginning and containing

1 437.6585 acres of land.

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

9 (b) The governor, one of the required recipients, has
10 submitted the notice and Act to the Texas Commission on
11 Environmental Quality.

12 (c) The Texas Commission on Environmental Quality has filed
13 its recommendations relating to this Act with the governor, the
14 lieutenant governor, and the speaker of the house of
15 representatives within the required time.

16 (d) All requirements of the constitution and laws of this
17 state and the rules and procedures of the legislature with respect
18 to the notice, introduction, and passage of this Act are fulfilled
19 and accomplished.

20 SECTION 4. (a) If this Act does not receive a two-thirds
21 vote of all the members elected to each house, Subchapter C, Chapter
22 8062, Special District Local Laws Code, as added by Section 1 of
23 this Act, is amended by adding Section 8062.0306 to read as follows:

24 Sec. 8062.0306. NO EMINENT DOMAIN POWER. The district may
25 not exercise the power of eminent domain.

26 (b) This section is not intended to be an expression of a
27 legislative interpretation of the requirements of Section 17(c),

1 Article I, Texas Constitution.

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