

By: Taylor

S.B. No. 2538

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 77; 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 8379 to read as follows:

CHAPTER 8379. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 77

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8379.0101. 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 Brazoria County Municipal Utility District No. 77.

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

Sec. 8379.0103. 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. 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

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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;

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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 $01^{\circ}22'30''$ 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 $24^{\circ}37'30''$ West, 822.44 feet, a radius of 1041.74
5 feet, and a central angle of $46^{\circ}30'00''$, a distance of 845.45 feet to
6 a point for corner;

7 THENCE, South $47^{\circ}52'30''$ 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 $25^{\circ}48'15''$ West, 345.34 feet, a radius of 485.37 feet,
11 and a central angle of $41^{\circ}40'43''$, a distance of 353.07 feet to a "cut
12 back" corner;

13 THENCE, South $43^{\circ}48'16''$ 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 $87^{\circ}22'55''$ 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 $02^{\circ}37'05''$ 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 $01^{\circ}22'30''$ 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 $24^{\circ}37'30''$ East, 822.72, a radius of 1041.74 feet, and
6 a central angle of $46^{\circ}31'00''$, a distance of 845.76 feet to a point
7 for corner;

8 THENCE, North $47^{\circ}52'30''$ 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 $25^{\circ}45'18''$ East, 345.34, a radius of 458.37 feet, and a
12 central angle of $44^{\circ}15'34''$, a distance of 354.08 feet to a point for
13 corner;

14 THENCE, North $43^{\circ}48'11''$ 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 $49^{\circ}19'36''$ 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 $31^{\circ}22'42''$ West, 339.80, a radius of 458.37 feet, and a
26 central angle of $43^{\circ}30'46''$, a distance of 348.11 feet to a point for
27 corner;

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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

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

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

THENCE, South $87^{\circ}10'14''$ West, 923.16 feet along the
centerline of said County Road 60 to an angle point for corner;

THENCE, North $02^{\circ}52'34''$ West, 947.37 feet along the
centerline of County Road 65 to an angle point for corner;

THENCE, South $87^{\circ}22'55''$ West, 4180.39 feet to an interior
corner;

THENCE, South $02^{\circ}37'05''$ East, 858.91 feet to the north line of
said County Road 60;

THENCE, South $87^{\circ}06'10''$ West, 217.50 feet to the POINT OF
BEGINNING and containing 193.360 acres of land; more or less, for a
TOTAL ACREAGE of 705.269 ACRES.

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

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.