S.B. No. 2145

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 79; 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 8151 to read as follows:

CHAPTER 8151. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 79

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8151.0101.  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. 79.

Sec. 8151.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8151.0103.  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.

Sec. 8151.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8151.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8151.0105.  FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

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

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

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

Sec. 8151.0106.  INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b)  The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the 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. 8151.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 8151.0202, directors serve staggered four-year terms.

Sec. 8151.0202.  TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1)  Mark C. Wargo;

(2)  Kathleen English;

(3)  Inna Babbitt;

(4)  Linda Houston; and

(5)  John B. Tickle.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 8151.0103; or

(2)  the fourth anniversary of the effective date of the Act enacting this chapter.

(c)  If permanent directors have not been elected under Section 8151.0103 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 8151.0103; 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. 8151.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8151.0302.  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. 8151.0303.  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. 8151.0304.  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. 8151.0305.  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. 8151.0401.  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 8151.0403.

(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. 8151.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8151.0401, 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. 8151.0403.  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. 8151.0501.  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. 8151.0502.  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. 8151.0503.  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 County Municipal Utility District No. 79 initially includes all the territory contained in the following area:

Being 79.905 acres of land located in the A. C. H. & B. R. R. Co. Survey, Section 90 also known as the Kate R. Ehrmann Survey, Abstract 459 of Brazoria County, Texas, more particularly being a portion of Block "O" of the Allison Richey Gulf Coast Home Company Part of Suburban Gardens, a subdivision of record in Volume 2, Page 91 & 92, Plat Records, Brazoria County, Texas (B.C.P.R.) more particularly being all of those certain tracts called 2.2229 acres (referred to as Tract B), 16.6700 acres (referred to as Tract C), 46.8412 acres (referred to as Tract D), 14.1479 acres (referred to as Tract E) conveyed to VDB Partners, Ltd, by instrument of record in File Number 99-050835, Official Records of Brazoria County, Texas (B.C.O.R.), all of those certain tracts called 46.8412 acres (referred to as Tract D), and 14.1479 acres (referred to as Tract E) conveyed to VDB Partners, Ltd, by instrument of record in File Number 99- 050834, B.C.O.R. and in an affidavit to correct legal description of record under File Number 2006000883, B.C.O.R., said 79.905 acres being more particularly described by metes and bounds in two tracts, Tract One being 16.447 acres and Tract Two being 63.458 acres as follows (all bearings referenced to the Texas Coordinate System, South Central Zone, NAO 83 (1993 adjustment));

TRACT ONE

BEGINNING at a 5/8-inch iron rod found for a re-entrant corner on the north line of that certain called 99.9653 acre tract conveyed to SLP 288 and Rodeo Palms II, LP, by instrument of record in File No. 2004064049, B.C.O.R.;

Thence, North 03° 08' 38" West, along the west line of said 14.1479 acre tract and the most northerly east line of said 99.9653 acre tract, 333.68 feet to a 5/8-inch iron rod with cap stamped "LA THOMPSON 3987" found for the most northerly northeast corner of said 99.9653 acre tract, same being the southeast corner of Lot 19, Section 90 of the Allison Richey Gulf Coast Home Company Part of Suburban Gardens, a subdivision of record in Volume 2, Page 98, B.C.P.R.;

Thence, North 03° 19' 05" West, continuing along the west line of said 14.1479 acre tract and along the east line of said Lot 19 and Lot 18 of said subdivision, passing at 1,318.43 feet a TXDOT concrete right-of-way monument found for the northeast corner of said Lot 18 and for an angle point on the easterly right-of-way line of State Highway 288 (width varies), from which a found TXDOT concrete right-of-way monument bears South 85° 24' 57" West, 7.42 feet for an angle point on said easterly right-of-way line, and continuing along said easterly right-of-way line and said west line in all 1,354.07 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" set for an angle point on said easterly right-of-way line;

Thence, North 09° 45' 18" East, continuing along said 14.1479 acre tract and said easterly right-of-way line, passing at 472.50 feet a 5/8-inch iron rod found for the common west corner of said 14.1479 acre tract and the aforementioned 2.2229 acre tract, and continuing along the common line of said easterly right-of-way line and the westerly line of said 2.2229 acre tract, in all 865.71 feet to a TXDOT concrete right-of-way monument found for an angle point on said easterly right-of-way line, the beginning of a curve;

Thence, continuing along said common line, 251.31 feet along the arc of a non-tangent curve to the left having a radius of 1,195.92 feet, a central angle of 12° 02' 25", and a chord that bears North 03° 59' 19" East, 250.85 feet to a TXDOT concrete right-of-way monument found for the point of tangency of said easterly right-of-way line;

Thence, North 02° 01' 53" West, continuing along said common line, 23.81 feet to a 5/8- inch iron rod with cap stamped "LJA ENG" set for an angle point on said easterly right-of-way line;

Thence, North 41° 22' 51" East, continuing along said common line, 139.94 feet to a 5/8- inch iron rod with cap stamped "LJA ENG" set for an angle point on said easterly right-of-way line, said point being the north corner of said 2.2229 acre tract and located at the intersection of said easterly right-of-way line and the west right-of-way line of County Road No. 82 (70 feet wide, AKA Iowa Lane);

Thence, South 02° 27' 53" East, along said west right-of-way line and the east line of said 2.2229 acre tract, passing at 755.91 feet the common east corner of said 2.2229 and 14.1479 acre tracts, from which a found 5/8-inch iron rod bears North 81° 46' 31" West, 2.79 feet and a found 1/2-inch iron rod bears South 05° 03' 37" East, 6.31 feet, and continuing along said west right-of-way line and the east line of said 14.1479 acre tract, in all 2,903.60 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" set for the intersection of said west right-of-way line with the north line of said 99.9653 acre tract, from which a 5/8-inch iron rod bears North 02° 27' 53" West, 1.68 feet;

Thence, South 86° 42' 53" West, along the north line of said 99.9653 acre tract, 284.45 feet the POINT OF BEGINNING and containing 16.447 acres of land.

TRACT TWO

BEGINNING at a 5/8-inch iron rod found for the northeast corner of that certain called 99.9653 acre tract conveyed to SLP 288 and Rodeo Palms II, LP, by instrument of record in File No. 2004064049, B.C.O.R.;

Thence, South 86° 42' 53" West, along the most easterly north line of said 99.9653 acre tract, 964.95 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" set for the intersection of the east right-of-way line of County Road No. 82 (70 feet wide, AKA Iowa Lane) with the north line of said 99.9653 acre tract;

Thence, North 02° 27' 53" West, along said east right-of-way line, passing at 2,147.50 feet the common west corner of the aforementioned 46.8412 acre tract and the aforementioned 16.6700 acre tract, from which a found 5/8-inch iron rod bears North 71° 19' 55" West, 2.93 feet and a found 1/2-inch iron rod bears South 25° 18' 36" East, 6.82 feet, and continuing along said east right-of-way line and the west line of the aforementioned 16.6700 acre tract, in all 2,903.69 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" set for the intersection of said east right- of-way line and easterly right-of-way line of State Highway 288 (width varies);

Thence, North 86° 38' 43" East, along said easterly right-of-way line and along a north line of said 16.6700 acre tract, 139.51 feet to a 5/8-inch iron rod found for an angle point on said easterly right-of-way line and a re-entrant corner on said north line;

Thence, North 04° 30' 35" West, continuing along said easterly right-of-way line and said north line, 29.58 feet to a 5/8-inch iron rod found at the intersection of said easterly right-of-way line and the south right-of-way line of County Road 58 (called 60 feet wide);

Thence, North 86° 44' 06" East, along said south right-of-way line and said north line, passing at 754.62 feet the common survey line of said A. C. H. & B. R. R. Co. Survey, Section 90 and the Mary V. O'Donnell! Survey, Abstract 469, of said Brazoria County, continuing in all

784.31 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" set for the northeast corner of said 16.6700 acre tract as described in File Number 99-050835, B.C.O.R.;

Thence, South 03° 17' 19" East, along the record east line of said 16.6700 acre tract, passing at 785.03 feet the common east corner of said 16.6700 and 46.8412 acre tracts, and continuing along the record east line of said 46.8412 acre tract in all 2,932.86 feet to the POINT OF BEGINNING and containing 63.458 acres of land.

Said Tract One and Tract Two containing a total of 79.905 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 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 8151, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8151.0306 to read as follows:

Sec. 8151.0306.  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 immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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I hereby certify that S.B. No. 2145 passed the Senate on April 29, 2021, by the following vote:  Yeas 31, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 2145 passed the House on May 8, 2021, by the following vote:  Yeas 109, Nays 30, two present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor