S.B. No. 2147

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 82; 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 8153 to read as follows:

CHAPTER 8153.  BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 82

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8153.0101.  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. 82.

Sec. 8153.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8153.0103.  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. 8153.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8153.0103 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. 8153.0105.  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. 8153.0106.  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. 8153.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 8153.0202, directors serve staggered four-year terms.

Sec. 8153.0202.  TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, 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 temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 8153.0103; 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 8153.0103 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 8153.0103; 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. 8153.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8153.0302.  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. 8153.0303.  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. 8153.0304.  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. 8153.0305.  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.

Sec. 8153.0306.  DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1)  has no outstanding bonded debt; and

(2)  is not imposing ad valorem taxes.

(b)  This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c)  A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act enacting this chapter.

(d)  The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e)  The board may adopt an order dividing the district before or after the date the board holds an election under Section 8153.0103 to confirm the district's creation.

(f)  An order dividing the district shall:

(1)  name each new district;

(2)  include the metes and bounds description of the territory of each new district;

(3)  appoint temporary directors for each new district; and

(4)  provide for the division of assets and liabilities between the new districts.

(g)  On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h)  Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8153.0103.

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

(j)  Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(k)  Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 8153.0104 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8153.0401.  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 8153.0403.

(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. 8153.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8153.0401, 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. 8153.0403.  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. 8153.0501.  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. 8153.0502.  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. 8153.0503.  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. 82 initially includes all the territory contained in the following area:

Beginning at a concrete monument found in the easterly right-of-way line of F. M. Highway 521 (100-feet wide) for the northwest corner of said called 541.131 acre tract, same being the southwest corner of an adjoining called 2.97 acre tract recorded under County Clerk's File Number 01-008056, Office of the County Clerk, Brazoria County, Texas, for the northwest corner and Place of Beginning of the herein described tract;

Thence North 87 degrees 05 minutes 19 seconds East along the north line of the herein described tract and said called 541.131 acre tract, same being the south line of said adjoining called 2.97 acre tract, and the south line of an adjoining called 96.50 acre tract recorded under County Clerk's File Number 00-016352, Office of the County Clerk, Brazoria County, Texas, 2,947.41 feet to a concrete monument found for angle point, said point being the southeast corner of said adjoining called 96.50 acre tract, same being the southwest corner of the adjoining residue of a called 36.97 acre tract recorded under County Clerk's File Number 94-019052, Office of the County Clerk, Brazoria County, Texas;

Thence North 86 degrees 57 minutes 34 seconds East along the north line of the herein described tract and said called 541.131 acre tract, same being the south line of said adjoining called 36.97 acre tract, 861.64 feet to the northwest corner of an adjoining called 43.308 acre tract recorded under County Clerk's File Number 2017048421, Office of the County Clerk, Brazoria County, Texas, and described under County Clerk's File Number 2002063838, Office of the County Clerk, Brazoria County, Texas, for the upper northeast corner of the herein described tract;

Thence South 03 degrees 24 minutes 10 seconds East along the common line of the herein described tract and said adjoining called 43.308 acre tract, 1,622.24 feet to the southwest corner of said adjoining called 43.308 acre tract, said point being in the north line of the aforementioned residue of a called 60 acre tract;

Thence North 86 degrees 26 minutes 35 seconds East continuing along said common line, 825.98 feet to a point in the west right-of-way line of State Highway 288 for the middle northeast corner of the herein described tract, same being the southeast corner of said adjoining called 43.308 acre tract;

Thence South 08 degrees 10 minutes 09 seconds East along the west right-of-way line of State Highway 288, 1,184.70 feet to the beginning of a curve to the right;

Thence with said curve to the right, continuing along the west right-of-way line of State Highway 288, having a central angle of 01 degree 53 minutes 42 seconds, an arc length of 372.03 feet, a radius of 11,249.16 feet, and a chord bearing South 07 degrees 13 minutes 18 seconds East, 372.02 feet to the northeast corner of an adjoining called 4.9560 acre tract (Tract One) recorded under County Clerk's File Number 96-0362520, Office of the County Clerk, Brazoria County, Texas;

Thence South 86 degrees 48 minutes 29 seconds West along the common line of the herein described tract and said adjoining called 4.9560 acre tract, 271.50 feet to the northwest corner of said adjoining called 4.9560 acre tract for a reentry corner to the herein described tract;

Thence South 02 degrees 12 minutes 28 seconds East continuing along said common line, 734.87 feet to the southwest corner of said adjoining called 4.9560 acre tract for a reentry corner to the herein described tract;

Thence North 87 degrees 09 minutes 47 seconds East continuing along said common line, 299.63 feet to the southeast corner of said adjoining called 4.9560 acre tract for the lower northeast corner of the herein described tract, said point being in the west right-of-way line of State Highway 288, and being in a non-tangent curve to the right;

Thence with said non-tangent curve to the right, along the west right-of-way line of State Highway 288, having a central angle of 02 degrees 16 minutes 29 seconds, an arc length of 446.63 feet, a radius of 11,249.16 feet, and a chord bearing South 01 degree 23 minutes 01 second East, 446.60 feet to the end of said curve;

Thence South 00 degrees 14 minutes 46 seconds East continuing along the west right-of-way line of State Highway 288, 1,890.37 feet to the northeast corner of an adjoining called 15 acre tract recorded under County Clerk's File Number 02-067061, Office of the County Clerk, Brazoria County, Texas, for the upper southeast corner of the herein described tract, being the upper southeast corner of the aforementioned called 170.00 acre tract;

Thence South 87 degrees 02 minutes 34 seconds West along the upper south line of the herein described tract, same being the north line of said adjoining called 15 acre tract, 354.62 feet to the northwest corner of said adjoining called 15 acre tract, same being the northeast corner of an adjoining called 91.87 acre tract (Tract Three) recorded under County Clerk's File Number 2015014625, Office of the County Clerk, Brazoria County, Texas, and described in Volume 362, Page 470, Deed Records, Brazoria County, Texas, for an angle point, said point being in the centerline of the Angleton Protection Levee;

Thence South 86 degrees 59 minutes 15 seconds West along the north line of said adjoining called 91.87 acre tract, 2,103.32 feet to the northwest corner of said adjoining called 91.87 acre tract, for a reentry corner to the herein described tract, said point being in the west line of said J. W. Cloud Survey, Abstract 169, same being the east line of said George Robinson League, Abstract 126;

Thence South 02 degrees 44 minutes 56 seconds East along the east line of said George Robinson League, Abstract 126, same being the west line of said J. W. Cloud Survey, Abstract 169, and the west line of said adjoining called 91.87 acre tract, 803.82 feet to an angle point, being the lower southeast corner of said called 170.00 acre tract, same being the northeast corner of the aforementioned residue of a called 134 acre tract;

Thence South 02 degrees 50 minutes 23 seconds East continuing along said line, 655.23 feet to a point for the lower southeast corner of the herein described tract and said residue of a called 134 acre tract, same being the northeast corner of an adjoining called 116.155 acre tract recorded under County Clerk's File Number 2018029439, Office of the County Clerk, Brazoria County, Texas;

Thence South 86 degrees 53 minutes 29 seconds West along the lower south line of the herein described tract, same being the north line of said adjoining called 116.155 acre tract, and the north line of an adjoining called 4.52 acre tract recorded under County Clerk's File Number 2010021440, Office of the County Clerk, 3,742.61 feet to a point for the lower southwest corner of the herein described tract, same being the southeast corner of the adjoining residue of a called 1.0 acre tract recorded in Volume 1251, Page 707, Deed Records, Brazoria County, Texas;

Thence North 04 degrees 36 minutes 11 seconds West along the common line of the herein described tract and said adjoining residue of a called 1.0 acre tract, 158.90 feet to the northeast corner of said adjoining called 1.0 acre tract;

Thence South 87 degrees 02 minutes 13 seconds West continuing along said common line, 277.30 feet to the northwest corner of said adjoining residue of a called 1.0 acre tract, said point being in the east right-of-way line of County Road 44, and being in a non-tangent curve to the right;

Thence with said non-tangent curve to the right, being the east right-of-way line of County Road 44, having a central angle of 14 degrees 56 minutes 06 seconds, an arc length of 723.70 feet, a radius of 2,776.40 feet, and a chord bearing North 13 degrees 22 minutes 44 seconds West, 721.66 feet to the southwest corner of an adjoining called 1.0371 acre tract recorded under County Clerk's File Number 2008008925, Office of the County Clerk, Brazoria County, Texas;

Thence North 84 degrees 54 minutes 13 seconds East along the common line of the herein described tract and said adjoining called 1.0371 acre tract, 252.52 feet to the southeast corner of said adjoining called 1.0371 acre tract for a reentry corner to the herein described tract;

Thence North 04 degrees 18 minutes 51 seconds West continuing along said common line, 181.64 feet to the northeast corner of said adjoining called 1.0371 acre tract for a reentry corner to the herein described tract;

Thence South 84 degrees 43 minutes 22 seconds West continuing along said common line, 251.68 feet to the northwest corner of said adjoining called 1.0371 acre tract, said point being in the east right-of-way line of County Road 44, and being in a non-tangent curve to the right;

Thence with said non-tangent curve to the right, being the east right-of-way line of County Road 44, transitioning to the easterly right-of-way line of F. M. Highway 521, having a central angle of 10 degrees 03 minutes 42 seconds, an arc length of 487.56 feet, a radius of 2,776.40 feet, and a chord bearing North 02 degrees 51 minutes 09 seconds East, 486.94 feet to the southwest corner of an adjoining tract being called Lot 5 and the South 60-feet of Lot 6, Block 35, Fruitland Subdivision, as evidenced in deed recorded under County Clerk's File Number 2006000498, Office of the County Clerk, Brazoria County, Texas;

Thence North 87 degrees 06 minutes 39 seconds East along the common line of the herein described tract and said adjoining Fruitland Subdivision tract, 132.66 feet to the southeast corner of said adjoining Fruitland Subdivision tract for a reentry corner to the herein described tract;

Thence North 02 degrees 53 minutes 20 seconds West continuing along said common line, 60.00 feet to the northeast corner of said adjoining Fruitland Subdivision tract for a reentry corner to the herein described tract;

Thence South 87 degrees 06 minutes 39 seconds West continuing along said common line, 120.56 feet to the northwest corner of said adjoining Fruitland Subdivision tract, said point being in the easterly right-of-way line of F. M. Highway 521, and being in a non-tangent curve to the right;

Thence with said non-tangent curve to the right, being the easterly right-of-way line of F. M. Highway 521, having a central angle of 04 degrees 50 minutes 12 seconds, an arc length of 234.37 feet, a radius of 2,776.40 feet, and a chord bearing North 11 degrees 33 minutes 54 seconds East, 234.31 feet to the end of said curve;

Thence North 13 degrees 58 minutes 59 seconds East along the westerly line of the herein described tract, same being the easterly right-of-way line of F. M. Highway 521, 302.34 feet to a concrete monument found for angle point, said point being the northwest corner of said called 170.00 acre tract, same being the southwest corner of the aforementioned called 170.66 acre tract;

Thence North 14 degrees 05 minutes 31 seconds East continuing along said line, 973.60 feet to the southwest corner of the adjoining residue of a called 2 acre tract recorded in Volume 122, Page 203, Deed Records, Brazoria County, Texas;

Thence North 87 degrees 21 minutes 22 seconds East along the common line of the herein described tract and said adjoining residue of a called 2 acre tract, 1,700.63 feet to the southeast corner of said adjoining called 2 acre tract for a reentry corner to the herein described tract;

Thence North 02 degrees 38 minutes 38 seconds West continuing along said common line, 50.00 feet to the northeast corner of said adjoining residue of a called 2 acre tract for a reentry corner to the herein described tract;

Thence South 87 degrees 21 minutes 22 seconds West continuing along said common line, 1,685.60 feet to the northwest corner of said adjoining residue of a called 2 acre tract for the upper southwest corner of the herein described tract, said point being in the easterly right-of-way line of F. M. Highway 521;

Thence North 14 degrees 05 minutes 31 seconds East along the westerly line of the herein described tract, same being the easterly right-of-way line of F. M. Highway 521, 217.09 feet to an angle point, said point being the northwest corner of said called 170.66 acre tract, same being the southwest corner of the aforementioned residue of a called 541.131 acre tract;

Thence North 14 degrees 02 minutes 37 seconds East continuing along the westerly line of the herein described tract, same being the easterly right-of-way line of F. M. Highway 521, 4,611.00 feet to the Place of Beginning and containing 911.12 acres of land, more or less.

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 8153, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8153.0307 to read as follows:

Sec. 8153.0307.  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. 2147 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. 2147 passed the House on May 8, 2021, by the following vote:  Yeas 117, Nays 22, two present not voting.

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

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