

By: Vasut

H.B. No. 4581

A BILL TO BE ENTITLED

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.

1 Sec. 8153.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8153.0103 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. 8153.0105. 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. 8153.0106. 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. 8153.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

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

7 Sec. 8153.0202. 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 8153.0103; 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 8153.0103 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 8153.0103; 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. 8153.0301. 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. 8153.0302. 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. 8153.0303. 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. 8153.0304. 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. 8153.0305. 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. 8153.0306. 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) 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 8153.0103 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 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 8153.0103.

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 8153.0104 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. 8153.0401. 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 8153.0403.

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. 8153.0402. OPERATION AND MAINTENANCE TAX. (a) If
21 authorized at an election held under Section 8153.0401, 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. 8153.0403. 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. 8153.0501. 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. 8153.0502. 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. 8153.0503. 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

1 No. 82 initially includes all the territory contained in the
2 following area:

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

10 Thence North 87 degrees 05 minutes 19 seconds East along the
11 north line of the herein described tract and said called 541.131
12 acre tract, same being the south line of said adjoining called 2.97
13 acre tract, and the south line of an adjoining called 96.50 acre
14 tract recorded under County Clerk's File Number 00-016352, Office
15 of the County Clerk, Brazoria County, Texas, 2,947.41 feet to a
16 concrete monument found for angle point, said point being the
17 southeast corner of said adjoining called 96.50 acre tract, same
18 being the southwest corner of the adjoining residue of a called
19 36.97 acre tract recorded under County Clerk's File Number
20 94-019052, Office of the County Clerk, Brazoria County, Texas;

21 Thence North 86 degrees 57 minutes 34 seconds East along the
22 north line of the herein described tract and said called 541.131
23 acre tract, same being the south line of said adjoining called 36.97
24 acre tract, 861.64 feet to the northwest corner of an adjoining
25 called 43.308 acre tract recorded under County Clerk's File Number
26 2017048421, Office of the County Clerk, Brazoria County, Texas, and
27 described under County Clerk's File Number 2002063838, Office of

1 the County Clerk, Brazoria County, Texas, for the upper northeast
2 corner of the herein described tract;

3 Thence South 03 degrees 24 minutes 10 seconds East along the
4 common line of the herein described tract and said adjoining called
5 43.308 acre tract, 1,622.24 feet to the southwest corner of said
6 adjoining called 43.308 acre tract, said point being in the north
7 line of the aforementioned residue of a called 60 acre tract;

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

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

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

24 Thence South 86 degrees 48 minutes 29 seconds West along the
25 common line of the herein described tract and said adjoining called
26 4.9560 acre tract, 271.50 feet to the northwest corner of said
27 adjoining called 4.9560 acre tract for a reentry corner to the

1 herein described tract;

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

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

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

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

24 Thence South 87 degrees 02 minutes 34 seconds West along the
25 upper south line of the herein described tract, same being the north
26 line of said adjoining called 15 acre tract, 354.62 feet to the
27 northwest corner of said adjoining called 15 acre tract, same being

1 the northeast corner of an adjoining called 91.87 acre tract (Tract
2 Three) recorded under County Clerk's File Number 2015014625, Office
3 of the County Clerk, Brazoria County, Texas, and described in
4 Volume 362, Page 470, Deed Records, Brazoria County, Texas, for an
5 angle point, said point being in the centerline of the Angleton
6 Protection Levee;

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

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

20 Thence South 02 degrees 50 minutes 23 seconds East continuing
21 along said line, 655.23 feet to a point for the lower southeast
22 corner of the herein described tract and said residue of a called
23 134 acre tract, same being the northeast corner of an adjoining
24 called 116.155 acre tract recorded under County Clerk's File Number
25 2018029439, Office of the County Clerk, Brazoria County, Texas;

26 Thence South 86 degrees 53 minutes 29 seconds West along the lower
27 south line of the herein described tract, same being the north line

1 of said adjoining called 116.155 acre tract, and the north line of
2 an adjoining called 4.52 acre tract recorded under County Clerk's
3 File Number 2010021440, Office of the County Clerk, 3,742.61 feet
4 to a point for the lower southwest corner of the herein described
5 tract, same being the southeast corner of the adjoining residue of a
6 called 1.0 acre tract recorded in Volume 1251, Page 707, Deed
7 Records, Brazoria County, Texas;

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

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

17 Thence with said non-tangent curve to the right, being the
18 east right-of-way line of County Road 44, having a central angle of
19 14 degrees 56 minutes 06 seconds, an arc length of 723.70 feet, a
20 radius of 2,776.40 feet, and a chord bearing North 13 degrees 22
21 minutes 44 seconds West, 721.66 feet to the southwest corner of an
22 adjoining called 1.0371 acre tract recorded under County Clerk's
23 File Number 2008008925, Office of the County Clerk, Brazoria
24 County, Texas;

25 Thence North 84 degrees 54 minutes 13 seconds East along the
26 common line of the herein described tract and said adjoining called
27 1.0371 acre tract, 252.52 feet to the southeast corner of said

1 adjoining called 1.0371 acre tract for a reentry corner to the
2 herein described tract;

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

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

12 Thence with said non-tangent curve to the right, being the
13 east right-of-way line of County Road 44, transitioning to the
14 easterly right-of-way line of F. M. Highway 521, having a central
15 angle of 10 degrees 03 minutes 42 seconds, an arc length of 487.56
16 feet, a radius of 2,776.40 feet, and a chord bearing North 02
17 degrees 51 minutes 09 seconds East, 486.94 feet to the southwest
18 corner of an adjoining tract being called Lot 5 and the South
19 60-feet of Lot 6, Block 35, Fruitland Subdivision, as evidenced in
20 deed recorded under County Clerk's File Number 2006000498, Office
21 of the County Clerk, Brazoria County, Texas;

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

27 Thence North 02 degrees 53 minutes 20 seconds West continuing

1 along said common line, 60.00 feet to the northeast corner of said
2 adjoining Fruitland Subdivision tract for a reentry corner to the
3 herein described tract;

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

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

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

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

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

1 corner of said adjoining called 2 acre tract for a reentry corner to
2 the herein described tract;

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

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

12 Thence North 14 degrees 05 minutes 31 seconds East along the
13 westerly line of the herein described tract, same being the
14 easterly right-of-way line of F. M. Highway 521, 217.09 feet to an
15 angle point, said point being the northwest corner of said called
16 170.66 acre tract, same being the southwest corner of the
17 aforementioned residue of a called 541.131 acre tract;

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

23 SECTION 3. (a) The legal notice of the intention to
24 introduce this Act, setting forth the general substance of this
25 Act, has been published as provided by law, and the notice and a
26 copy of this Act have been furnished to all persons, agencies,
27 officials, or entities to which they are required to be furnished

1 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
2 Government Code.

3 (b) The governor, one of the required recipients, has
4 submitted the notice and Act to the Texas Commission on
5 Environmental Quality.

6 (c) The Texas Commission on Environmental Quality has filed
7 its recommendations relating to this Act with the governor, the
8 lieutenant governor, and the speaker of the house of
9 representatives within the required time.

10 (d) All requirements of the constitution and laws of this
11 state and the rules and procedures of the legislature with respect
12 to the notice, introduction, and passage of this Act are fulfilled
13 and accomplished.

14 SECTION 4. (a) If this Act does not receive a two-thirds
15 vote of all the members elected to each house, Subchapter C, Chapter
16 8153, Special District Local Laws Code, as added by Section 1 of
17 this Act, is amended by adding Section 8153.0307 to read as follows:

18 Sec. 8153.0307. NO EMINENT DOMAIN POWER. The district may
19 not exercise the power of eminent domain.

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

23 SECTION 5. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2021.